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THE

EXECUTIVE DOCUMENTS

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FIFTY-THIRD CONGRESS.

1893.

IN ONE VOLUME.

WASHINGTON:
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1893.

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INDEX TO HOUSE EXECUTIVE DOCUMENTS.

In one volume, Nos. 1 to 27, inclusive.

Subject.	No.
A.	
Assistant custodians and janitors. (*See* Custodians and janitors.)	
Armory building, letter of Secretary of Treasury relative to condition of....	7
Army, letter of Secretary of War relative to alleged violations of order by, in Cherokee Strip.....	27
discharged enlisted men, letter of Secretary of War relative to detained pay of.....	22
Attorney-General, communications from—	
Chinese exclusion act, letters relative to instructions to United States attorneys, etc., for the enforcement of.....	9
Union Pacific Railroad, letter with information relative to receivership of	21
B.	
Bank paper, letter of Secretary of Treasury with estimate of deficiency in....	3
C.	
Cherokee Strip, letter of Secretary of War relating to acts of troops in opening of.....	27
Chinese:	
Letter of Attorney-General relating to instructions to United States attorney for the enforcement of the exclusion act	8
Letter of Secretary of Treasury on same subject	10
Civil Service Commission, estimate of deficiency in appropriation for salaries.	4
Columbia River, letter of Secretary of War relative to removal of obstructions in	8
Custodians and janitors, letter of Secretary of Treasury relative to deficiency appropriation for.....	18
D.	
Department of Justice, letter of Secretary of Treasury submitting estimates for additional appropriations for.....	24
District of Columbia court of appeals. letter of Secretary of Treasury for appropriation to pay certain employés of.....	23
E.	
Enlisted men. (*See* Army.)	
F.	
Fish Commission building. (*See* Armory building.)	
Fort Logan, Colo., letter of Secretary of War relative to prosecutions for offenses committed on reservation at.....	14
G.	
Geary law. (*See* Chinese.)	
General Land Office, letter of Secretary of Treasury transmitting estimates of deficiency in appropriations for inspectors.....	26

Subject.	No.
I.	
Inspectors. (*See* General Land Office.)	
L.	
Land Office. (*See* General Land Office.)	
N.	
Naval vessels, letter of Secretary of Navy relative to premiums paid for speed.	20
O.	
Olsen, Thorwald, letter of Secretary of War relative to	17
P.	
Pensions:	
Letter of Secretary of Treasury transmitting estimate of additional appropriation for investigation of	12
Letter of Secretary of Interior relating to number of invalid, granted, etc.	15
Letter of Secretary of Interior with information of issues of, under dependent pension act	19
Postmaster-General, communication from:	
Post-Office Department, letter relative to disposition of useless papers in.	6
Premiums. (*See* Naval vessels.)	
President, message of	1
Public-land service, letter of Secretary of Treasury transmitting additional estimate of appropriation for	13
R.	
Registers and receivers, letter of Secretary of Treasury transmitting estimates of deficiency in appropriation to pay	25
S.	
San Francisco, Cal., letter of Secretary of Treasury relative to site for public building at	16
Secretary of the Interior, communications from:	
Invalid pensions, letter relative to number granted	15
Dependent pension act, letter relative to issue of pensions under	19
Secretary of the Navy, communications from:	
Premiums, letter relative to amount, paid to contractors for extra speed for war vessels	20
Secretary of the Treasury, communications from:	
Armory building, letter of, relative to appropriation to place, in safe condition	7
Assistant custodians and janitors, estimate of deficiency in appropriation to pay	18
Bank paper, estimate of appropriation to purchase	3
Chinese exclusion act, letter relative to instructions given collectors, etc., for the enforcement of	10
Department of Justice, additional appropriations for	24
District of Columbia court of appeals, letter requesting appropriation to pay certain employés of	23
General Land Office, letter transmitting estimate of deficiency in appropriation to pay inspectors of	26
Silver bullion, report on purchases of, under act of July 14, 1890	2
Letter of information as to purchases of, for July and August	11
Pension cases, letter with estimate of additional appropriation for investigation of	12
Public-land service, letter transmitting estimate of additional appropriation for	13
Registers and receivers, letter transmitting estimates of deficiencies to pay	25

Subject.	No.
Secretary of the Treasury, communications from—Continued.	
San Francisco, Cal., letter relative to site for public building at	16
Wolf Trap, Va., and Solomons Lump, Md., estimate of increased appropriation for erection of light-houses at	5
Secretary of War, communications from:	
Cherokee Strip, letter of, relating to acts of troops in the opening of	27
Columbia River, letter of, relative to removal of obstructions in	8
Discharged enlisted men, letter relative to detained pay of	22
Fort Logan, Colo., letter relative to prosecutions for offenses committed on reservation	14
Olsen, Thorwald, letter relative to bill for relief of	17
Silver:	
Letter of Secretary of Treasury with information as to amount of bullion purchased under act of July 14, 1890	2
Letter of Secretary of Treasury relative to purchases of bullion for July and August	11
Solomons Lump, Md., letter of Secretary of Treasury relative to erection of light-house at	5
U.	
Union Pacific Railroad, letter of Attorney-General relative to receivership of.	21
W.	
Wolf Trap, Va., letter of Secretary of Treasury relative to erection of light-house at	5

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 1.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES

COMMUNICATED TO THE

TWO HOUSES OF CONGRESS

AT THE

BEGINNING OF THE FIRST SESSION OF THE FIFTY-THIRD CONGRESS.

AUGUST 8, 1893.—Read, ordered to lie on the table, and be printed.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1893.

H. Ex. 1——1

MESSAGE.

To the Congress of the United States:

The existence of an alarming and extraordinary business situation, involving the welfare and prosperity of all our people, has constrained me to call together in extra session the people's representatives in Congress, to the end that through a wise and patriotic exercise of the legislative duty with which they solely are charged, present evils may be mitigated and dangers threatening the future may be averted.

Our unfortunate financial plight is not the result of untoward events nor of conditions related to our natural resources; nor is it traceable to any of the afflictions which frequently check national growth and prosperity. With plenteous crops, with abundant promise of remunerative production and manufacture, with unusual invitation to safe investment and with satisfactory assurance to business enterprise, suddenly financial distrust and fear have sprung up on every side. Numerous moneyed institutions have suspended because abundant assets were not immediately available to meet the demands of frightened depositors. Surviving corporations and individuals are content to keep in hand the money they are usually anxious to loan, and those engaged in legitimate business are surprised to find that the securities they offer for loans, though heretofore satisfactory, are no longer accepted. Values supposed to be fixed are fast becoming conjectural, and loss and failure have invaded every branch of business.

I believe these things are principally chargeable to Congressional legislation touching the purchase and coinage of silver by the General Government.

This legislation is embodied in a statute passed on the 14th day of July, 1890, which was the culmination of much agitation on the subject involved, and which may be considered a truce, after a long struggle, between the advocates of free silver coinage and those intending to be more conservative.

Undoubtedly the monthly purchases by the Government of four million and five hundred thousand ounces of silver, enforced under that statute, were regarded by those interested in silver production

as a certain guaranty of its increase in price. The result, however, has been entirely different, for immediately following a spasmodic and slight rise, the price of silver began to fall after the passage of the act and has since reached the lowest point ever known. This disappointing result has led to renewed and persistent effort in the direction of free silver coinage.

Meanwhile, not only are the evil effects of the operation of the present law constantly accumulating but the result to which its execution must inevitably lead is becoming palpable to all who give the least heed to financial subjects.

This law provides that in payment for the four million and five hundred thousand ounces of silver bullion which the Secretary of the Treasury is commanded to purchase monthly, there shall be issued Treasury notes redeemable on demand in gold or silver coin, at the discretion of the Secretary of the Treasury, and that said notes may be reissued. It is, however, declared in the act to be "the established policy of the United States to maintain the two metals on a parity with each other upon the present legal ratio or such ratio as may be provided by law." This declaration so controls the action of the Secretary of the Treasury as to prevent his exercising the discretion nominally vested in him, if by such action the parity between gold and silver may be disturbed. Manifestly a refusal by the Secretary to pay these Treasury notes in gold, if demanded, would necessarily result in their discredit and depreciation as obligations payable only in silver, and would destroy the parity between the two metals by establishing a discrimination in favor of gold.

Up to the fifteenth day of July, 1893, these notes had been issued in payment of silver bullion purchases, to the amount of more than one hundred and forty-seven millions of dollars. While all but a very small quantity of this bullion remains uncoined and without usefulness in the Treasury, many of the notes given in its purchase have been paid in gold. This is illustrated by the statement that between the first day of May, 1892, and the fifteenth day of July, 1893, the notes of this kind issued in payment for silver bullion, amounted to a little more than fifty-four millions of dollars, and that during the same period about forty-nine millions of dollars were paid by the Treasury in gold for the redemption of such notes.

The policy necessarily adopted of paying these notes in gold has not spared the gold reserve of one hundred millions of dollars long ago set aside by the Government for the redemption of other notes, for this fund has already been subjected to the payment of new obligations amounting to about one hundred and fifty millions of

dollars on account of silver purchases, and has as a consequence, for the first time since its creation, been encroached upon.

We have thus made the depletion of our gold easy, and have tempted other and more appreciative nations to add it to their stock. That the opportunity we have offered has not been neglected, is shown by the large amounts of gold which have been recently drawn from our Treasury and exported to increase the financial strength of foreign nations. The excess of exports of gold over its imports for the year ending June 30, 1893, amounted to more than eighty-seven and a half millions of dollars.

Between the first day of July, 1890, and the fifteenth day of July, 1893, the gold coin and bullion in our Treasury decreased more than one hundred and thirty-two millions of dollars, while during the same period the silver coin and bullion in the Treasury increased more than one hundred and forty-seven millions of dollars. Unless Government bonds are to be constantly issued and sold to replenish our exhausted gold, only to be again exhausted, it is apparent that the operation of the silver purchase law now in force, leads in the direction of the entire substitution of silver for the gold in the Government Treasury, and that this must be followed by the payment of all Government obligations in depreciated silver.

At this stage gold and silver must part company and the Government must fail in its established policy to maintain the two metals on a parity with each other. Given over to the exclusive use of a currency greatly depreciated according to the standard of the commercial world, we could no longer claim a place among nations of the first class, nor could our Government claim a performance of its obligation, so far as such an obligation has been imposed upon it, to provide for the use of the people the best and safest money.

If, as many of its friends claim, silver ought to occupy a larger place in our currency and the currency of the world through general international co-operation and agreement, it is obvious that the United States will not be in a position to gain a hearing in favor of such an arrangement so long as we are willing to continue our attempt to accomplish the result single handed.

The knowledge in business circles among our own people that our Government cannot make its fiat equivalent to intrinsic value, nor keep inferior money on a parity with superior money by its own independent efforts, has resulted in such a lack of confidence at home, in the stability of currency values that capital refuses its aid to new enterprises while millions are actually withdrawn from the channels of trade and commerce to become idle and unproductive in the hands of timid owners. Foreign investors equally alert

not only decline to purchase American securities but make haste to sacrifice those which they already have.

It does not meet the situation to say that apprehension in regard to the future of our finances is groundless and that there is no reason for lack of confidence in the purposes or power of the Government in the premises. The very existence of this apprehension and lack of confidence, however caused, is a menace which ought not for a moment to be disregarded. Possibly if the undertaking we have in hand were the maintenance of a specific known quantity of silver at a parity with gold, our ability to do so might be estimated and gauged, and perhaps in view of our unparalleled growth and resources, might be favorably passed upon. But when our avowed endeavor is to maintain such parity in regard to an amount of silver increasing at the rate of fifty millions of dollars yearly, with no fixed termination to such increase, it can hardly be said that a problem is presented whose solution is free from doubt.

The people of the United States are entitled to a sound and stable currency and to money recognized as such on every exchange and in every market of the world. Their Government has no right to injure them by financial experiments opposed to the policy and practice of other civilized states nor is it justified in permitting an exaggerated and unreasonable reliance on our national strength and ability to jeopardize the soundness of the people's money.

This matter rises above the plane of party politics. It vitally concerns every business and calling and enters every household in the land. There is one important aspect of the subject which especially should never be overlooked. At times like the present, when the evils of unsound finance threaten us, the speculator may anticipate a harvest gathered from the misfortune of others, the capitalist may protect himself by hoarding or may even find profit in the fluctuation of values; but the wage-earner—the first to be injured by a depreciated currency and the last to receive the benefit of its correction—is practically defenseless. He relies for work upon the ventures of confident and contented capital. This failing him, his condition is without alleviation, for he can neither prey on the misfortunes of others, nor hoard his labor. One of the greatest statesmen our country has known, speaking more than fifty years ago when a derangement of the currency had caused commercial distress, said: "The very man of all others who has the deepest interest in a sound currency and who suffers most by mischievous legislation in money matters, is the man who earns his daily bread by his daily toil."

These words are as pertinent now as on the day they were uttered, and ought to impressively remind us that a failure in the discharge

of our duty at this time must especially injure those of our countrymen who labor, and who because of their number and condition are entitled to the most watchful care of their Government.

It is of the utmost importance that such relief as Congress can afford in the existing situation be afforded at once. The maxim "He gives twice who gives quickly," is directly applicable. It may be true that the embarrassments from which the business of the country is suffering arise as much from evils apprehended as from those actually existing. We may hope, too, that calm counsels will prevail and that neither the capitalists nor the wage-earners will give way to unreasoning panic, and sacrifice their property or their interests under the influence of exaggerated fears. Nevertheless, every day's delay in removing one of the plain and principal causes of the present state of things enlarges the mischief already done and increases the responsibility of the Government for its existence. Whatever else the people have a right to expect from Congress they may certainly demand that legislation condemned by the ordeal of three years' disastrous experience shall be removed from the statute books as soon as their representatives can legitimately deal with it.

It was my purpose to summon Congress in special session early in the coming September that we might enter promptly upon the work of tariff reform, which the true interests of the country clearly demand, which so large a majority of the people as shown by their suffrages, desire and expect, and to the accomplishment of which every effort of the present Administration is pledged. But while tariff reform has lost nothing of its immediate and permanent importance, and must in the near future engage the attention of Congress, it has seemed to me that the financial condition of the country should at once and before all other subjects, be considered by your honorable body.

I earnestly recommend the prompt repeal of the provisions of the act passed July 14, 1890, authorizing the purchase of silver bullion, and that other legislative action may put beyond all doubt or mistake the intention and the ability of the Government to fulfill its pecuniary obligations in money universally recognized by all civilized countries.

GROVER CLEVELAND.

EXECUTIVE MANSION,
August 8, 1893.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 2.

PURCHASE AND COINAGE OF SILVER.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

Pursuant to House resolution of the 16th instant, information relating to the purchase and coinage of silver under the act of July 14, 1890.

AUGUST 22, 1893.—Laid on the table and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., August 19, 1893.

SIR: I have to acknowledge the receipt of the following resolution passed by the House of Representatives on the 16th instant:

Resolved, That the Secretary of the Treasury is hereby respectfully requested to communicate to the House the following information relating to the purchase and coinage of silver under the act of July 14, 1890, entitled "An act directing the purchase of silver bullion and the issue of Treasury notes thereon, and for other purposes:"

First. How many ounces of silver bullion have been purchased and what has been the highest, lowest, and average market price paid?

Second. What amount of Treasury notes has been issued in payment of the silver bullion, what amount redeemed, and what amount reissued?

Third. What amount of Treasury notes has been redeemed in gold coin and what amount in silver coin?

Fourth. How many standard silver dollars have been coined?

Fifth. How many ounces of silver bullion are now owned by the Government?

In reply I have the honor to state:

First. The number of ounces of silver bullion purchased under the act of July 14, 1890, from August 13, 1890, to August 16, 1893, inclusive, was 161,521,000 fine ounces, costing $150,669,459. The highest price paid was $1.20\frac{1}{4}$, August 20, 1890, and the lowest price $0.696, July 24, 1893; average price, $0.9328+.

Second. Treasury notes to the amount of $150,115,985 have been issued to date, August 16, 1893, in payment of the silver bullion, and that amount is still outstanding, the redemptions having been replaced by issues, with the exception of $714,636, which have been redeemed in standard silver dollars and retired from circulation since August 3 instant.

Third. Up to August 1, 1893, $49,184,160 in Treasury notes have been redeemed in gold, and since August 3, 1893, $714,636 in Treasury notes have been redeemed in silver dollars, this being the first redemption of these notes in silver.

Fourth. The number of standard silver dollars coined from bullion purchased under the act of July 14, 1890, to August 16, 1893, has been 36,087,185.

Fifth. The number of ounces of silver owned by the Government, purchased under the act of July 14, 1890, on August 16, 1893, was 133,161,375 fine ounces, costing $121,217,677.

Very respectfully,

J. G. CARLISLE,
Secretary.

Hon. CHARLES F. CRISP,
Speaker House of Representatives.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 3.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A communication from the Comptroller of the Currency, relating to a deficiency in the amount of distinctive paper provided for national bank currency during the current fiscal year.

AUGUST 24, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT,
August 23, 1893.

SIR: I have the honor to transmit herewith communications from the Comptroller of the Currency and the Chief of Division of Loans and Currency of this Office, dated August 21, 1893, and August 22, 1893, respectively, relating to a deficiency in the amount of distinctive paper provided for national bank currency during the current fiscal year, and showing that the entire stock of paper will be exhausted within the next ten days.

Under the circumstances, as set forth in the accompanying communications, an estimate of appropriation to supply the deficiency for this object is therefore submitted, as follows:

Expenses of national currency, 1894: For additional distinctive paper, express charges, and other expenses for the fiscal year ending June 30, 1894, forty-four thousand three hundred dollars ($44,300).

Respectfully yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT,
OFFICE OF THE COMPTROLLER OF THE CURRENCY,
Washington, D. C., August 21, 1893.

SIR: I have the honor to state that the paper provided for in appropriation by Congress, to be used in printing incomplete national bank currency, 1,500,000 sheets, for the fiscal year ending June 30, 1894, will be exhausted within the next week or ten days.

It is difficult to estimate with exactness the amount of additional currency which will be ordered by the national banks during the present fiscal year, upon additional bonds deposited, and action of Congress

can not be anticipated with respect to the passage of an act authorizing the issue of circulation up to the par value of bonds; but, the Comptroller of the Currency is of the opinion that at least 7,500,000 sheets of paper in addition to the 1,500,000 already provided for will be necessary, and therefore respectfully requests that the Congress shall provide, by appropriation, for the additional amount of paper, as above estimated, at the earliest practicable moment.

Very respectfully,

JAMES H. ECKLES,
Comptroller.

Hon. JOHN G. CARLISLE,
Secretary of the Treasury.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D., C., August 22, 1893.

SIR: I have the honor to transmit herewith copy of a letter from the Comptroller of the Currency, of the 21st instant, with reference to a deficiency in the amount of distinctive paper provided for national bank currency during the present fiscal year, and requesting that Congress be asked to provide by appropriation at the earliest practicable moment for the purchase of 7,500,000 sheets of paper additional to the 1,500,000 sheets already provided for by the regular appropriation of $9,300 for that object.

Upon the basis of the present daily requisitions of the Bureau of Engraving and Printing the entire stock of paper for national currency will be exhausted within the next ten days, and can thereafter only be supplied by using paper provided by separate appropriations for other securities.

The cost of the additional paper asked for by the Comptroller of the Currency will be as follows:

7,500,000 sheets, 90,000 pounds, at 43½ cents	$39,150
Expressage on paper, at $2 per 100 pounds	2,250
Mill expenses during an estimated period of four months	2,900
Total to be appropriated	44,300

Very respectfully,

A. T. HUNTINGTON,
Chief of Division of Loans and Currency.

The SECRETARY OF THE TREASURY.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 4.

DEFICIENCY APPROPRIATION FOR THE CIVIL SERVICE COMMISSION.

LETTER

FROM THE

ACTING PRESIDENT OF THE CIVIL SERVICE COMMISSION,

TRANSMITTING

An estimate of deficiency appropriation for salaries required for the period from September 15 next to the end of the fiscal year 1894.

AUGUST 29, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., August 26, 1893.

SIR: This Commission has the honor to submit, with request that it be laid before the Appropriations Committee, the following estimate of deficiency appropriation for salaries required for its service for the period from September 15 next to the end of the fiscal year, June 30, 1894:

8 clerks of class 4	$11,400.00
8 clerks of class 3	10,133.33
10 clerks of class 2	11,083.33
10 clerks of class 1	9,500.00
1 clerk of class $1,000	791.66
Total (37 clerks)	42,908.32

These thirty-seven clerks thus appropriated for upon the Commission's own roster will take the place of the thirty-seven clerks now detailed to the Commission from the departments, whose aggregate salary for the period from September 15 next to the end of the fiscal year, June 30, 1894, would be $40,287.87. There will be no increase in the number of clerks, and the aggregate of the salaries increased will be but $2,600. The thirty-seven clerks now detailed to the Commission come from the following departments:

Treasury Department:—2 clerks class 4; 1 clerk class 3; 3 clerks class 2; 1 clerk at $840.

War Department.—3 clerks class 1.

Navy Department.—1 clerk class 2; 1 clerk class 1.

Interior Department.—2 clerks class 3; 2 clerks class 2; 2 clerks class 1; 1 clerk at $900.

Post-Office Department.—1 clerk class 3; 2 clerks class 2; 2 clerks class 1; 1 clerk Railway Mail Service at $1,150.

Agricultural Department.—4 clerks class 4; 2 clerks class 3; 4 clerks class 1; 2 clerks at $1,000.

Total, 37.

I beg leave to inclose herewith a copy of the letter already sent on this subject to the Hon. A. M. Dockery, chairman of the Joint Commission of Congress. It does not seem necessary to add anything to what is contained in this letter in urging the absolute necessity of this deficiency appropriation being made. The net increase of cost is very trifling, being but $2,600. There would be absolutely no loss to any of the departments, for all of the thirty-seven clerks are now detailed for duty with the Commission and are doing no work for the departments whatsoever. There will be the greatest gain to the public, because the Commission will be able to get up its arrears of work and to mark the papers of those applicants, now over 7,000 in number, who have taken examinations during the last six months. Owing to its absolute inability to perform the task laid out for it with the force given it the Commission has been entirely unable to mark these papers, and it is daily receiving numerous complaints from the men who were examined and their friends, while the public service will speedily begin to suffer in efficiency if we are not able to get up with the arrears of work.

The reason why the Commission deems there should be the slight alterations in the salaries, as above suggested, is that it is, of course, desirable to have the clerks divided with approximate equality among the different grades, and because it is very necessary that the Commission should have a number of high-grade clerks in view of the delicacy of their task and of the extreme importance that it should be performed, not only with the utmost fidelity but with the utmost intelligence. At present the Commission, having no control over the men detailed to it as clerks, in the matter of promotion, of reduction, of appointment, or dismissal, is entirely unable to get satisfactory work performed, while in very many cases the departments, not unnaturally, send us their poorest clerks, being unwilling to spare the best ones from their own work. Thus, although this is nominally a deficiency appropriation, yet it is really little else than changing the form in which the appropriation already made shall be applied, so as to enormously increase the efficiency of the work which will be secured from it.

With this change made the Commission will speedily be able to procure a perfectly efficient force, and to get up its arrears of work, though these arrears have accumulated with such rapidity during the last six months that it is very possible that even with this change the Commission will have to cut down, for the time being, the number of examinations to be held after the present fall examinations are over, so as not to have new work piled in before the material which has accumulated can be disposed of. To avoid this it would be necessary to make an additional appropriation for temporary clerk hire, say for five $1,000 clerks for six months. By rights the Commission should have this temporary additional increase, but it is possible for the Commission, by the exercise of all its efforts, to economize and to get the greatest amount of work out of its subordinates, and by cutting down on the examinations to be held, save where they are absolutely necessary, to do without it.

It is not possible, however, for the Commission to do satisfactory work and to do justice both to the applicants who desire to enter the civil service and to the public service itself unless the request made in

the opening part of this letter is complied with and unless it is given the thirty-seven clerks mentioned above outright on its own roster, with full power over them, instead of being dependent upon the Departments for what it receives; and, furthermore, it is necessary that they should be appropriated for at the salaries which the Commission has estimated for above. If there is any change at all it should be in the direction of increasing the number of the high grade relatively to that of the low grade clerks.

Morever, I have the honor to state to you that on July 1 last the Commission had to leave its quarters because of their being required for the appeal court of the District of Columbia. The Commission had great difficulty in finding any suitable quarters within the limits of the appropriation given it by Congress. Finally the Commission succeeded in getting the building in which it now is for the sum allowed by Congress. In our old quarters, however, the Commission had no occasion for watchmen or firemen, being situated in the City Hall, and was able to get along with but one laborer, although that laborer was much overworked. In its new quarters the Commission occupies the entire building, and it is therefore necessary that it should be given the following force:

1 laborer, at $660	$522.50
1 engineer, at $1,000	788.66
3 watchmen, at $720 each	1,710.00
Total	3,021.16

The Commission needs this force to provide for the building being cared for, guarded, and warmed in winter.

I have the honor to be, with great respect, very truly yours,

THEODORE ROOSEVELT,
Acting President.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., August 22, 1893.

SIR: In the Commission's letter of July 1 last we laid before you as urgently as we could the need of the Commission for immediate increase of its clerical force. This need grows more urgent month by month. When we wrote you, the papers of five thousand applicants were behind in the marking; now there are seven or eight thousand unmarked, and the examinations being held are for unusually large classes. Very shortly, unless some relief is granted, the Commission will be obliged to stop altogether holding examinations save those for which there is an actual necessity; and, indeed, it is likely that the Commission will be obliged to do this in any event, even if the force asked for is allowed, because the Commission will first have to catch up with the arrears of work, and this it can not do if it has to go on with any new work.

Your attention is especially called to the fact that the main reason why the Commission has so much work to do is because of its effort to maintain the quotas of the different States on an equality. It has endeavored always to hold examinations twice a year in each State for all applicants. Under the civil service act no appointments in the classified service can be made save through the Commission, and there-

fore if the Commission is unable to hold these examinations in every State and Territory it will simply have to fall back upon what was the habit before the act went into effect, and, if necessary, to take the men from the District of Columbia and the adjoining States. Under the act the more remote States, especially the Gulf States and those of the Pacific Slope, have received several times as many appointments proportionately as they did under the old system. It has been the constant effort of the Commission to do exact justice to the States, as far as their quotas are concerned, and this has caused the bulk of the expense. The Commission will be obliged very soon, if it is not relieved, to cease receiving applications and to cease holding examinations in States where there is not a pressing need of eligibles for the public service.

As already pointed out, the Commission could be given an adequate force simply by transferring to its roll the clerks now detailed to serve with it from the various Departments. At present the Commission's clerical force consists of sixteen persons in its own employ, and nominally thirty-seven from the various Departments in addition, including twelve from the Department of Agriculture, five from the Post-Office Department, eight from the Interior, seven from the Treasury, three from the War, and two from the Navy. One of the five from the Post-Office Department has only been promised and has not yet reported for duty. Two of those from the Treasury have been withdrawn and their successors not yet appointed, and one of those from the Interior has just been sent back. Moreover, those detailed for service from the Department of Agriculture have just been detailed, and many of them have not yet had their regular leaves and sick leaves, and are now taking them, so that the Commission gets no benefit from their nominal connection with it; and in many cases it will be a month or six weeks before they can be even put on trial, and it will be a month or six weeks longer before the Commission can find out whether they are worth while retaining. Of the whole force of thirty-seven nominally detailed not more than one-half really do efficient work. Indeed this would be an overestimate.

It is needless to point out the very great harm to the service arising from this system of details. Naturally the departments send some of their poorest clerks, and these clerks during the past few months have been promoted, refused promotion, and even dismissed by the departments from which they come, wholly without regard to the wishes of the Commission and wholly without regard to the efficiency of their service. All of their work is done for the Commission and none for the departments from which they come. Yet the Commission has no power over them and none to make them do good work or get good persons in their stead if they fail to do good work. Absolutely not one argument based upon the good of the service can be advanced against transferring these men to the roll of the Commission. It should be done at once. It should not only be done for the next fiscal year, but for this fiscal year. Unless it is done the Commission will fall steadily more and more behind in its work and will simply be unable to do justice to all applicants and to the service.

I earnestly recommend that steps be taken for the immediate transfer of the thirty-seven clerks provided for on the rolls of the different departments above named and detailed to serve with the Commission, to the roll of the Commission. This will not cause a particle of loss to the departments' force, for none of these men are now serving with the departments, while it will enormously increase the efficiency of the Commission's own force. In providing for these men, all upon the Com-

mission's roll, however, there should be a change in the grades in certain cases so as to secure uniformity and give the Commission a sufficient force of the higher grades, to which alone many of the persons employed in our difficult work should belong. If this is allowed, the Commission will at once remove those that are incompetent and replace them from the eligible registers. In this way the Commission will guarantee that it will get a thoroughly efficient force in a short time.

The Commission at present, as above enumerated, has sixteen men on its own roll and thirty-seven nominally connected with it, or fifty-three in all. If these fifty-three were allotted to it outright they should be divided as follows: 10 clerks of class 4, 10 clerks of class 3, 13 clerks of class 2, 13 clerks of class 1, 4 clerks of class $1,000, 2 clerks of class $900, 1 messenger. Total, 53.

Moreover, the Department of the Interior has declined to furnish the Commission with a man to heat its building and watchmen. The Commission now has but one laborer, and it should have two. It will, therefore, need one engineer to act also as fireman, one watchman, two night watchmen, and an additional laborer.

Very respectfully,

THEODORE ROOSEVELT,
Acting President.

Hon. A. M. DOCKERY,
Chairman Joint Commission of Congress to Inquire into the Laws Organizing the Executive Departments, etc.

AUGUST 26, 1893.

P. S.—When this letter was written the condition of affairs had grown steadily worse than on July 1, when the Commission first wrote Mr. Dockery; additional details had been granted, but they were mostly very inefficient clerks—over half were, in fact; and the number of unmarked examination papers had greatly increased, so that the deficiency estimate had also to be increased.

THEODORE ROOSEVELT.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 5.

LIGHT-HOUSES AT WOLF TRAP, VA., AND SOLOMONS LUMP, MD.

LETTER

FROM

THE ACTING SECRETARY OF THE TREASURY,

RELATING TO

The appropriation for replacing the light-houses at Wolf Trap, Va., and Solomons Lump, Md.

SEPTEMBER 9, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT,
Washington, August 28, 1893.

SIR: When the items for replacing the light-houses at Wolf Trap, Va., and at Solomons Lump, Md., were placed in the sundry civil appropriation bill, approved March 3, 1893, giving $70,000 for the former and $30,000 for the latter, the Light-House Board had not been able, on account of ice and bad weather, to have such examination of the localities made as was necessary to the thorough understanding of the condition of the structure at the sites in question.

Further knowledge shows that the appropriation for the light at Solomons Lump is too small. The bids received for doing the work at Wolf Trap light-station show that there will be a balance left over from the appropriation after that work is finished. This balance, if made available for use at Solomons Lump light-station, will enable the Light-House Board to erect a solid and substantial structure at that point. If that is done, no additional funds will be needed to complete Solomons Lump light-station.

I have the honor to recommend, at the instance of the Light-House Board, that such legislation may be had as is necessary to enable the Light-House Board to use the balance of the $70,000 appropriated for the establishment of a light-house at Wolf Trap Shoal, Va., to enable it to finish the light-house to be established at Solomons Lump, Md., and that it may be made available at the earliest practicable moment.

Respectfully yours,

C. S. HAMLIN,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 6.

USELESS PAPERS IN THE EXECUTIVE DEPARTMENTS.

LETTER

FROM

THE POSTMASTER GENERAL,

REFERRING

To the act of Congress approved February 16, 1889, relating to useless papers in the Executive Departments.

SEPTEMBER 12, 1893.—Referred to the Committee on the Post-Office and Post-Roads and ordered to be printed.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., August 30, 1893.

SIR: In accordance with the provisions of the act of Congress approved February 16, 1889, being "An act to authorize and provide for the disposition of useless papers in the Executive Departments," I have the honor to report that the files of this Department are burdened with an accumulation of old papers which are not needed or useful in the transaction of the current business of this Department and have no permanent value or historical interest, and also attach hereto as required by the above-mentioned act a concise statement showing the condition and character of such papers.

I have the honor to request that you will appoint, as required by the second paragraph of said act, two Representatives, who, with the two Senators required to be appointed by the presiding officer of the Senate, shall constitute a joint committee to which shall be referred this report with the accompanying statement of the condition and character of such papers, and who shall meet and examine such report and statement and the papers therein described, and submit to the Senate and House of Representatives a report of such examination and their recommendation, to the end that if they report that such files of paper or any part thereof are not needed or useful in the transaction of the current business of this Department, and have no permanent value or historical interest, they may be disposed of in the manner directed by the third paragraph of such act.

I have the honor to be, sir, very respectfully,

W. S. BISSELL,
Postmaster-General.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

POST-OFFICE DEPARTMENT,
OFFICE OF THE FIRST ASSISTANT POSTMASTER-GENERAL,
Washington, August 15, 1893.

SIR: Referring to the provisions of section 51, Postal Laws and Regulations, edition of 1893, I beg to report, as follows, an accumulation of files of papers in this bureau which, in my judgment, are not needed or useful in the transaction of the current business of the Department, and which have no permanent value or historical interest, and may therefore be disposed of, as indicated in the said section, viz:

First. In the division of correspondence a large quantity of letters answered prior to January 1, 1891.

Second. In the Money Order Office ten volumes, containing a record of credits on money-order account granted to postmasters and of transfers from postal to money order account, and *vice versa*, made by postmasters.

Third. In the Dead Letter Office a large quantity of old jacketed applications for missing matter, which never possessed any actual value, and which pertain to cases long since finally disposed of. All such applications are recorded, and the record being in existence the cases might be revived therefrom in the very improbable event that such revival should become necessary. There are also a number of books containing memoranda evidently for merely temporary use, and a quantity of receipts for letters or parcels delivered to owners prior to the year 1882.

Fourth. In the division of salaries and allowances, a large number of papers, the accumulation of a number of years, described as follows: Jackets showing adjustments of salaries of Presidential postmasters; jackets and papers relative to allowances for clerk hire, rent, fuel, and light for first and second class post-offices; rosters of clerks of first and second class post-offices; jackets and papers relative to allowances for rent, fuel, and light for third-class post-offices; jackets and papers relative to miscellaneous allowances and cases, and papers relative to box rents, key deposits, and miscellaneous reports and correspondence.

I find no accumulation in either of the other divisions of this Bureau.

Very respectfully,

FRANK H. JONES,
First Assistant Postmaster-General.

Hon. W. S. BISSELL,
Postmaster-General.

POST-OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., August 18, 1893.

SIR: I have the honor to acknowledge the receipt of the letter of the Acting Postmaster-General, of the 1st instant, reading as follows:

> If there are accumulated files of useless papers in your Bureau, you will please make a report of the same to this Office in accordance with the terms of the second paragraph of section 51 of the Postal Laws and Regulations of 1893. This information is desired that the report mentioned in section 51 may be made to Congress immediately upon its assembling.

In compliance with these instructions, I have to report that the papers hereinafter described, now on the files of this office, "are not needed or useful in the transaction of current business and have no permanent value or historical interest," and in my judgment should be destroyed.

First. Registers of arrivals and departures of mails on mail routes furnished monthly by postmasters at reporting offices in the States and for the periods herein named. These reports relate to contract terms which have expired, and for which final settlements have been made (which settlements are shown by the permanent books), and do not include any reports which have been made the basis of deductions for failures to perform service.

Star Service.—Maine, 1880 to 1885 and 1887 to 1891; New Hampshire, 1880 to 1885 and 1887 to 1891; Vermont, 1880 to 1891; Massachusetts, 1880 to 1885 and 1887 to 1891; Rhode Island, 1880 to 1891; Connecticut, 1880 to 1889; New York, 1880 to 1892; New Jersey, 1880 to 1885 and 1887 to 1892; Pennsylvania, 1880 to 1892; Delaware, 1880 to 1892; Maryland, 1880 to 1892; Virginia, 1879 to 1892; West Virginia, 1879 to 1891; North Carolina, 1880 to 1892; South Carolina, 1878 to 1892; Georgia, 1878 to 1892; Florida, 1878 to 1892; Alabama, 1878 to 1892; Mississippi, 1879 to 1892; Tennessee, 1880 to 1892; Kentucky, 1880 to 1892; Ohio, 1880 to 1891; Indiana, 1880 to 1891; Illinois, 1868 to 1891; Michigan, 1880 to 1887; Wisconsin, 1880 to 1883 and 1885 to 1891; Minnesota, 1879 to 1891; Iowa, 1879 to 1891; Missouri, 1879 to 1891; Arkansas, 1880 to 1890; Louisiana, 1880 to 1890; Texas, 1880 to 1890; Indian Territory, 1882 to 1890; Kansas, 1879 to 1890; Nebraska, 1879 to 1890; Dakota, 1878 to 1890; Montana, 1878 to 1882, 1884, and 1886 to 1890; Wyoming, 1878 to 1882 and 1886 to 1890; Colorado, 1875 to 1890; New Mexico, 1878 to 1890; Arizona, 1881 to 1890; Utah, 1879 to 1890; Idaho, 1879 to 1890; Washington, 1878 to 1882; Oregon, 1875 to 1890; Nevada, 1875 to 1882 and 1886 to 1890; California, 1878 to 1890; Alaska, 1881 to 1882 and 1886 to 1890; miscellaneous, 1880 to 1884.

Railroad routes.—Maine, 1885 and 1891 to 1892; New Hampshire, 1885 and 1891 to 1892; Vermont, 1883 to 1885 and 1891 to 1892; Massachusetts, 1883 to 1885 and 1891 to 1892; Rhode Island, 1885 and 1892; Connecticut, 1885 and 1892; New York, 1883 to 1885, and 1892; New Jersey, 1883, 1885, and 1892; Pennsylvania, 1883 to 1885, and 1892; Delaware, 1883 to 1885, and 1892; Maryland, 1883, 1885, and 1892; Virginia, 1883 to 1885, and 1892; West Virginia, 1883 to 1885, and 1892; North Carolina, 1883 to 1885, and 1892; South Carolina, 1883 to 1885, and 1892; Georgia, 1883 to 1885, and 1892; Florida, 1883 to 1885, and 1892; Alabama, 1883 to 1885, and 1892; Mississippi, 1883 to 1885, and 1892; Tennessee, 1883 to 1885, and 1892; Kentucky, 1883 to 1885, and 1892; Ohio, 1883 to 1885, and 1892; Indiana, 1883 to 1885, and 1892; Illinois, 1883 to 1885, and 1892; Michigan, 1883 to 1885, and 1892; Wisconsin, 1883, 1885, and 1892; Minnesota, 1883 to 1885, and 1892; Iowa, 1883, 1885, and 1892; Missouri, 1883 to 1885, and 1892; Arkansas, 1883 to 1885, and 1892; Louisiana, 1883 to 1885, and 1892; Texas, 1883 to 1885 and 1892; Kansas, 1883 to 1885, and 1892; Nebraska, 1883 to 1885, and 1892; Dakota, 1885; South Dakota, 1892; North Dakota, 1892; Montana, 1885 and 1892; Wyoming, 1885 and 1892; Colorado, 1883 to 1885, and 1892; New Mexico, 1885 and 1892; Arizona, 1885 and 1892; Utah, 1885 and 1892; Idaho, 1885 and 1892; Washington, 1885 and 1892; Oregon, 1885 and 1892; Nevada, 1885; California, 1883, 1885, and 1892.

Mail messenger routes.—Maine, 1891 to 1892; New Hampshire, 1891 to 1892; Vermont, 1891 to 1892; Massachusetts, 1891 to 1892; Rhode Island, 1891 to 1892; Connecticut, 1891 to 1892; New York, 1891 to 1892; New Jersey, 1891 to 1892; Pennsylvania, 1891 to 1892; Delaware, 1891 to 1892; Maryland, 1891 to 1892; Virginia, 1891 to 1892; West Virginia, 1891 to 1892; North Carolina, 1889 to 1892; South Carolina,

1889 to 1892; Georgia, 1888 to 1892; Florida, 1888 to 1892; Alabama, 1888 to 1892; Mississippi, 1889 to 1892; Tennessee, 1888 to 1892; Kentucky, 1888 to 1892; Ohio, 1889 to 1891; Indiana, 1888 to 1891; Illinois, 1888 to 1891; Michigan, 1888 to 1891; Wisconsin, 1888 to 1891; Minnesota, 1888 to 1891; Iowa, 1888 to 1891; Missouri, 1887 to 1891; Arkansas, 1887 to 1890; Louisiana, 1887 to 1890; Texas, 1888 to 1890; Indian Territory, 1888 to 1890; Kansas, 1888 to 1890; Nebraska, 1888 to 1890; Dakota, 1888 to 1890; Montana, 1888 to 1890; Wyoming, 1889 to 1890; Colorado, 1888 to 1890; New Mexico, 1888 to 1890; Arizona, 1889 to 1890; Utah, 1888 to 1890; Idaho, 1888 to 1890; Washington, 1888 to 1890; Oregon, 1888 to 1890; Nevada, 1888 to 1890; California, 1888 to 1890; Alaska, 1889 to 1890.

Second. Proposals for carrying the mails on star routes which were not accepted (a complete record of which may be found in the permanent books of the Department), relating to the following-named States and periods:

Star routes (*proposals not accepted*).—Maine, 1881 to 1885 and 1889 to 1893; New Hampshire, 1881 to 1885 and 1889 to 1893; Vermont, 1881 to 1885 and 1889 to 1893; Massachusetts, 1881 to 1885 and 1889 to 1893; Rhode Island, 1881 to 1885 and 1889 to 1893; Connecticut, 1881 to 1885 and 1889 to 1893; New York, 1881 to 1885 and 1889 to 1893; New Jersey, 1881 to 1885 and 1889 to 1893; Pennsylvania, 1881 to 1885 and 1889 to 1893; Delaware, 1881 to 1885 and 1889 to 1893; Maryland, 1881 to 1885 and 1889 to 1893; Virginia, 1881 to 1885 and 1889 to 1893; West Virginia, 1881 to 1885 and 1889 to 1893; North Carolina, 1880 to 1884; South Carolina, 1881 to 1884 and 1888 to 1892; Georgia, 1880 to 1884 and 1888 to 1892; Florida, 1881 to 1884 and 1888 to 1892; Alabama, 1875 to 1876, 1881 to 1884, and 1888 to 1892; Mississippi, 1875 to 1876, 1880 to 1884, and 1888 to 1892; Tennessee, 1880 to 1884, 1884 to 1888, and 1888 to 1892; Kentucky, 1880 to 1884, 1884 to 1888, and 1888 to 1892; Ohio, 1880 to 1884; Indiana, 1881 to 1885; Illinois, 1878 to 1883, 1883 to 1887, and 1887 to 1891; Michigan, 1879 to 1883 and 1887 to 1891; Wisconsin, 1879 to 1883 and 1887 to 1891; Minnesota, 1887 to 1891; Iowa, 1879 to 1883, 1883 to 1887, 1887 to 1891, and 1890 to 1891; Missouri, 1869 to 1870, 1870 to 1874, 1876 to 1879, 1879 to 1883, 1883 to 1887, and 1887 to 1891; Arkansas, 1875 to 1878, 1878 to 1882, 1882 to 1886, and 1886 to 1890; Louisiana, 1879 to 1882, 1881 to 1883, 1886 to 1890; Texas, 1878 to 1882; Indian Territory, 1886 to 1890; Nebraska, 1878 to 1882; Dakota, 1878 to 1882; Montana, 1878 to 1882; Wyoming, 1878 to 1882; Colorado, 1878 to 1882.

Third. Certificates of oaths of carriers on mail routes in the several States and periods as follows:

Star routes.—Maine, 1881 to 1885; New Hampshire, 1881 to 1885; Vermont, 1881 to 1885; Massachusetts, 1881 to 1885; Rhode Island, 1881 to 1885; Connecticut, 1881 to 1885; New York, 1873 to 1881 and 1889 to 1893; New Jersey, 1864 to 1872, 1877 to 1881, and 1889 to 1893; Pennsylvania, 1868 to 1877 and 1885 to 1889; Delaware, 1868 to 1872, 1877 to 1881, 1885, and 1889 to 1893; Maryland, 1868 to 1877, and 1885; Virginia, 1872 to 1876, 1879 to 1882, and 1889 to 1891; West Virginia, 1878 to 1887, and 1889 to 1891; North Carolina, 1875 to 1880 and 1884 to 1890; South Carolina, 1878 to 1888; Georgia, 1878 to 1892; Florida, 1878 to 1885 and 1888 to 1892; Alabama, 1878 to 1885 and 1888 to 1892; Mississippi, 1888 to 1892; Tennessee, 1880 to 1882 and 1884 to 1891; Kentucky, 1880 to 1884 and 1888 to 1892; Ohio, 1869 to 1891; Indiana, 1880 to 1884; Illinois, 1879 to 1891; Michigan, 1879 to 1891;

Wisconsin, 1879 to 1887; Minnesota, 1874 to 1875 and 1882 to 1888; Iowa, 1874 to 1875 and 1882 to 1888; Missouri, 1874 to 1878 and 1882 to 1890; Arkansas, 1882 to 1890; Louisiana, 1882 to 1890; Texas, 1882 to 1890; Indian Territory, 1886 to 1890; Kansas, 1874 to 1875 and 1879 to 1892; Nebraska, 1874 to 1875, 1882 to 1886, and 1890 to 1891; Dakota, 1874 to 1878, and 1881; Colorado, 1886 to 1890; Utah, 1886 to 1890; Idaho, 1886 to 1890; Oregon, 1885; Nevada, 1885; California, 1878 to 1890; Territories, 1887 to 1889; miscellaneous, 1878 to 1884, 1885 to 1886, and 1890 to 1891.

Mail-messenger routes (oaths).—Maine, 1890, 1891, 1892; New Hampshire, 1890, 1891, 1892, Vermont, 1890, 1891, 1892; Massachusetts, 1890, 1891, 1892; Rhode Island, 1890, 1891, 1892; Connecticut, 1890, 1891, 1892; New York, 1890, 1891, 1892; New Jersey, 1890, 1891, 1892; Pennsylvania, 1890, 1891, 1892; Delaware, 1890, 1891, 1892; Maryland, 1890, 1891, 1892; Virginia, 1890, 1891, 1892; West Virginia, 1890, 1891, 1892; North Carolina, 1890, 1891, 1892; South Carolina, 1890, 1891, 1892; Georgia, 1890, 1891, 1892; Florida, 1890, 1891, 1892; Alabama, 1890, 1891, 1892; Mississippi, 1890, 1891, 1892; Tennessee, 1890, 1891, 1892; Kentucky, 1890, 1891, 1892; Ohio, 1890 and 1891; Indiana, 1890 and 1891; Illinois, 1890 and 1891; Michigan, 1890 and 1891; Wisconsin, 1890 and 1891; Minnesota, 1890 and 1891; Iowa, 1890 and 1891; Missouri, 1890 and 1891; Arkansas, 1890; Louisiana, 1890; Texas, 1890; Indian Territory, 1890; Kansas, 1890; Nebraska, 1890; South Dakota, 1890; North Dakota, 1890; Montana, 1890; Wyoming, 1890; Colorado, 1890; New Mexico, 1890; Arizona, 1890; Utah, 1890; Idaho, 1890; Washington, 1890; Oregon, 1890; Nevada, 1890; California, 1890; miscellaneous, 1882 to 1889.

Fourth. Certificates of oaths of other postal employés, as follows:

Miscellaneous oaths, covering all States and Territories.—Railway post-office clerks, 1873, 1878, 1879, 1880, 1882, 1883, 1884, 1886, and 1887; messengers employed by railroad companies, 1884 to 1885; local agents, 1866 to 1867; route agents, 1868 to 1884; mail weighers, 1881 to 1882.

In connection with the above, the superintendent of foreign mails reports the following-described papers received during the period from January 1, 1868, to December 31, 1892, and now on the files of his office, which may be advantageously destroyed pursuant to the provisions of section 51 of the United States Postal Laws and Regulations, edition of 1893, the same not being needed in the transaction of current business and having no permanent value or historical interest, namely:

First. Inquiries for missing articles of mail matter, and respecting postage rates and conditions.

Second. Reports of the arrivals and dispatches of mails, and of sea post-offices.

Third. Statements of the weights of the mails.

Fourth. Reports of minor irregularities in connection with exchanges of mails.

Fifth. Requisitions for supplies of various kinds.

Yours, respectfully,

J. LOWRIE BELL,
Second Assistant Postmaster-General.

Hon. W. S. BISSELL,
Postmaster-General.

POST-OFFICE DEPARTMENT,
OFFICE OF THIRD ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., August 14, 1893.

SIR: In compliance with the request of the Acting Postmaster-General of the 1st instant, I have the honor to report that there are now on hand in this office and its several agencies the following quantities of useless papers:

1. In the office here, 2,000 pounds or more of old requisitions for postage stamps, and other forms of stamped paper; also several hundred pounds of stubs of old post-office warrants and drafts.

2. At the postage-stamp agency at New York about 600 pounds of old order sheets for stamps, and correspondence relating thereto.

3. At the postal-card agency at Birmingham, Conn., about 8,000 pounds of matter of a similar character.

4. At the stamped envelope agency at Hartford, Conn., several hundred pounds of matter of like nature.

All these files may be advantageously disposed of as waste paper.

Yours, very respectfully,

KERR CRAIGE,
Third Assistant Postmaster-General.

The POSTMASTER-GENERAL.

POST-OFFICE DEPARTMENT,
OFFICE OF THE FOURTH ASSISTANT POSTMASTER-GENERAL.
Washington, D. C., August 4, 1893.

SIR: In reply to your communication of the 1st instant, in which you ask that a report be made to your office, in accordance with the terms of the second paragraph of section 51 the Postal Laws and Regulations of 1893, with reference to accumulated files of useless papers in the Bureau of the Fourth Assistant Postmaster-General, I have the honor to make the following report:

In the appointment division there is a very large accumulation of old papers and cases of appointments which are not considered useful in the transaction of current business and have no permanent value or historic interest, and could be disposed of up to March 4, 1889. These papers are stored in several portions of the building, are seldom if ever called for, and take up a great deal of room which could be used for the filing of more important documents.

In the Bond Division there are about 5,000 (estimated) reports of inspectors upon the validity of bonds of postmasters at Presidential and money-order offices, made between the years 1885 and 1889, which need be no longer preserved.

In the Division of Post-Office Inspectors and Mail Depredations the following papers can be disposed of without detriment to the office work: All A, or registered, cases from No. 21932A, July 1, 1882, to No. 51248A, June 30, 1888; all B, or ordinary, cases from No. 208227B, July 1, 1885, to No. 268341B, June 30, 1891; all F, or foreign, cases from No. 19599F of July 1, 1885, to No. 80647F, June 30, 1891.

In the selection of cases to be disposed of, I would recommend that the following exceptions be made: In the A, or registered cases, that there be retained on the files permanently all cases in which money has been recovered and returned to the owner, all cases upon which arrests have been made and which contain original evidence, and all cases the contents of which indicate that they may be valuable for future use; in

the B, or ordinary cases, the same exceptions, and in particular all cases relating to the burning and robbery of post-offices; in the F, or foreign cases, the same exceptions. I would also recommend the retention on the files of all cases known in the office parlance as "special" cases, which form a separate class known as D, or depredation cases. In addition to these papers there are two or three bags of old newspapers containing obscene matter, which ought to be burned, and a quantity of old lottery circulars which are no longer needed.

The above is a full and detailed statement of the condition of the files of this bureau, and is respectfully submitted.

Very respectfully,

R. A. MAXWELL,
Fourth Assistant Postmaster-General.

The POSTMASTER-GENERAL.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 7.

APPROPRIATION FOR THE ARMORY BUILDING.

LETTER

FROM

THE ACTING SECRETARY OF THE TREASURY,

TRANSMITTING

An estimate of appropriation required for placing in a safe condition the Armory building, occupied by the U. S. Fish Commission.

SEPTEMBER 12, 1893.—Referred to Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT,
September 11, 1893.

SIR: I have the honor to transmit herewith, for the consideration of Congress and for such action as it may deem proper, an estimate of appropriation required for placing in a safe condition the so-called Armory building, in the city of Washington, occupied for offices of the U. S. Fish Commission and for workshops of the National Museum, $12,000; also, an item for the rent of quarters pending repairs to said building, $3,000, as submitted by the Commissioner of Fish and Fisheries on the 25th ultimo.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., August 25, 1893.

SIR: I have the honor to submit herewith, with the request that in view of its nature the same be forwarded to Congress during its present session, an estimate of appropriation required for placing in a safe condition the so-called Armory building in the city of Washington, occupied for offices of the U. S. Fish Commission and for workshops of the U. S. National Museum; also an item for the rent of quarters pending repairs to said building.

I also enclose, with the request that the same be forwarded to Congress with the estimates in question, the report of the architect and engineer of the Commission on the condition of the building, together with other papers on the same subject.

Very respectfully,

MARSHALL MCDONALD,
Commissioner.

Hon. J. G. CARLISLE,
Secretary of the Treasury.

UNITED STATES COMMISSION OF FISH AND FISHERIES.

Repairs of office building.—For a new roof, strengthening of floors, and general repairs, including new elevator, standpipes, and fire-escapes, to the so-called Armory building, now occupied jointly by the U. S. Commission of Fish and Fisheries and the U. S. National Museum, and the building of an annex for a machine shop and boiler house, $12,000, to be immediately available.

Rent of offices.—For rent of offices in the city of Washington pending the repair of the so-called Armory building, and for the transfer of the office records and equipment, $3,000, to be immediately available.

DATA RELATIVE TO THE ARMORY BUILDING, WASHINGTON, D. C., NOW USED BY U. S. FISH COMMISSION FOR OFFICES, ETC.

And the Secretary of War be, and he hereby is, directed to cause to be constructed on such site, in a central position on the public grounds, in the city of Washington, as may be selected by the President of the United States, a suitable building for the care and preservation of the ordnance, and arms, and accouterments of the United States, required for the use of the volunteers and militia of the District of Columbia, and for the care and preservation of the military trophies of the Revolutionary and other wars, and for the deposit of newly-invented and model arms, for the military service, the said ordnance and arms, and the building to be used by the volunteers and militia of the District of Columbia, under such regulations as may be prescribed by the President, and for the purpose of carrying this act into effect, the sum of thirty thousand dollars be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Approved March 4, 1855.

(Statutes at Large, Vol. 10, p. 665.)•

[AN ACT making appropriation for supplying Army for 1857–'58.]

For finishing and furnishing the armory for the militia of the District of Columbia, seven thousand eight hundred and twenty-seven dollars.

Approved March 3, 1857.

(Statutes at Large, Vol. 11, p. 203.)

[Report of Col. O. E. Babcock, in charge of public buildings and grounds, in report for Engineers for 1874, Part II, p. 386.]

As the brick building in this square, known as the "Armory building," is old, unsightly, and contracts the appearance of these grounds, I recommend that authority be given to sell the same at public auction, the proceeds to be used in ornamenting the grounds. For this reason I have not included any sum for their improvement in my estimates for the next fiscal year.

[Extract from report of Secretary of Smithsonian Institution for 1876, p. 46.]

Anticipating the necessity of increased accommodations for the Centennial collections and accessions, the Smithsonian Institution, in 1875, made application to Congress for the use of the Armory building in the square between Sixth and Seventh streets, an edifice 100 feet by 50, having four floors. This it was supposed would be

adequate, at the close of the Centennial, for the reception and exhibition of at least the fishery exhibit and that of economical mineralogy. So great, however, was the surplus of the Centennial material to be provided for that the building is now filled with boxed specimens, occupying for the most part the entire space from floor to ceiling of each room. The building is not fireproof, and although the specimens in it represent some of the most valuable and important of the series, there is nothing to prevent their destruction by fire, or injury from damp, vermin, or other causes, a result which would constitute an irreparable loss.

[Sundry civil bill for 1876–'77. War Department.]

For repairing and fitting up the so-called Armory building on the mall, between Sixth and Seventh streets, and to enable the Smithsonian Institution to store therein and to take care of specimens of the extensive series of the ores of the precious metals, marbles, building stones, coals, and numerous objects of natural history now on exhibition at Philadelphia, including other objects of practical and economical value presented by various foreign governments to the National Museum, four thousand five hundred dollars: *Provided*, That the said sum shall be expended under the direction of the Secretary of the Smithsonian Institution.

Approved July 31, 1876.

(Statutes at Large, Vol. 19, p. 120.)

[Sundry civil bill, 1877–'78. Interior Department.]

For fitting up the Armory building for storage of articles belonging to the United States, including those transferred from the International Exhibition and expense of watching the same, two thousand five hundred dollars.

Approved March 3, 1877.

(Statutes at Large, Vol. 19, p. 350.)

[Extract from report of Secretary of Smithsonian Institution for 1878, p. 41.]

In anticipation of these donations Congress had previously authorized the transfer to the Smithsonian Institution, for the purpose of storage, of the Armory building, on the square between Sixth and Seventh streets, and made an appropriation to fit it up for the reception of the collections. To this building a portion of these collections was transferred, where they now fill four floors of about 5,000 square feet each from top to bottom, the remainder being stored in the basement of the Smithsonian Institution.

[Sundry civil bill for 1878–'79. Smithsonian Institution.]

Preservation of collections, Smithsonian Institution, Armory building: For expense of watching and storage of articles belonging to the United States, including those transferred from the International Exhibition of eighteen hundred and seventy-six, two thousand five hundred dollars.

Approved June 20, 1878.

(Statutes at Large, Vol. 20, p. 233.)

[Sundry civil bill for 1879–'80. Smithsonian Institution.]

Perservation of collections, Smithsonian Institution, Armory building: For expense of watching and storage of articles belonging to the United States, including those transferred from the International Exhibition of eighteen hundred and seventy-six, two thousand five hundred dollars.

Approved March 3, 1879.

(Statutes at Large, Vol. 20, p. 397.)

[Sundry civil bill for 1882–'83. National Museum.]

For the preservation of collections of the National Museum in the Armory building: For care of the Armory building and expense of watching, preservation, and storage of the duplicate collections of the Government and of property of the United States Fish Commission contained therein, including salaries or compensation of all necessary employés, two thousand five hundred dollars. And the distribution of duplicate specimens of the National Museum and Fish Commission may be made to colleges, academies, and other institutions of learning upon the payment by the recipients of the cost of preparation for transportation and the transporation thereof.

Approved August 7, 1882.

(Statutes at Large, Vol. 22, p. 332.)

[Sundry civil bill for 1883–'84. National Museum.]

For the preservation of collections of the National Museum in the Armory building: For care of the Armory building and grounds, and expense of watching, preservation and storage of the duplicate collections of the Government, and of property of the United States Fish Commission contained therein, including salaries or compensation of all necessary employés, two thousand five hundred dollars. And the distribution of duplicate specimens of the National Museum and Fish Commission may be made to colleges, academies, and other institutions of learning upon the payment by the recipients of the cost of preparation for transportation and the transportation thereof.

Approved March 3, 1883.

(Statutes at Large, Vol. 22, p. 629.)

[Sundry civil bill for 1884–'85. National Museum.]

For the preservation of collections of the National Museum in the Armory building: For care of the Armory building and grounds and expense of watching, preservation, and storage of the duplicate collections of the Government and of the property of the United States Fish Commission contained therein, including salaries or compensation of all necessary employés, two thousand five hundred dollars.

Approved July 7, 1884.

(Statutes at Large, Vol. 23, p. 214.)

[Sundry civil bill for 1885–'86. National Museum.]

For the preservation of collections of the National Museum in the Armory building: For care of the Armory building and grounds, and expense of watching, preservation, and storage of the property of the National Museum, and of the United States Fish Commission contained therein, including salaries or compensation of all necessary employés, two thousand five hundred dollars.

Approved March 3, 1885.

(Statutes at Large, Vol. 23, p. 501.)

[Sundry civil bill for 1888–'89. U. S. Fish Commission.]

Provided, That the building known as the Armory building, Washington, District of Columbia, shall be occupied, as at present, jointly by the United States Commission of Fish and Fisheries and the National Museum.

Approved October 8, 1888.

(Statutes at Large, Vol. 25, p. 521.)

[Sundry civil bill for 1889–'90. Fish Commission.]

For altering and fitting up the interior of the Armory building, on the Mall, city of Washington, now occupied as a hatching station, for the accommodation of the offices of the United States Fish Commission, and for general repairs to said building, including the heating apparatus, and for repairing and extending the outbuildings, seven thousand dollars, or so much thereof as may be necessary, the same to be immediately available and to be expended under the direction of the Architect of the Capitol; and for the purposes above named the Secretary of the Smithsonian Institution is hereby required to move from the second and third stories of this building all properties except such as are connected with the workshops hereinafter named, under his control; and the workshops now in the second story of said building shall be transferred to and provided for in the third story thereof.

Approved March 2, 1889.

(Statutes at Large, Vol. 25, p. 953.)

ARCHITECT'S OFFICE, U. S. CAPITOL,
Washington, D. C., April 1, 1889.

SIR: I regret to have to say that I consider the loft of the Columbia Armory building, now used by you as a hatching station, to be dangerously loaded. Heavy plaster models are placed right between the bearings of the joists, which have deflected considerably since this load has been put upon them.

In my opinion, the safety of the building requires that this weight should be removed at once. If you can furnish temporary shelter for these casts, and other heavy

material stored in the loft of the building referred to, I will give directions to have erected a storehouse, about 18 by 50 feet in size, at the west of your present storehouse, for the reception of the material in this loft.

Very respectfully,

EDWARD CLARK,
Architect U. S. Capitol.

MARSHALL MCDONALD, Esq.,
Commissioner of Fisheries, etc.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., July 1, 1889.

DEAR MR. CLARK: You have been so considerate already in arranging for our convenience in fitting up our quarters here, that I dislike to trouble you further in regard to the matter. I must, however, call your attention to the fact that the roof is in very bad condition, the recent rains having developed a number of leaks which endanger our records and other like property stored in the attic.

As long as they continue the building will be subject to constant deterioration. I am certain that nothing but a radical reconstruction of the roof, or indeed a new roof entire, will prove an adequate remedy for the present condition of things, and I hope you will keep the matter under advisement with a view of submitting a deficiency estimate for the completion of the alterations and repairs of the building.

Meanwhile, if you are not able to do anything with the present roof, we will patch it up as best we can. Would it not be well to have an examination made now with a view to the submission of your estimates when Congress assembles?

Very truly yours,

M. MCDONALD,
Commissioner.

Hon. EDWARD CLARK,
Architect of the Capitol.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., December 8, 1890.

DEAR SIR: I have the honor to submit the following provisional estimates of the cost of adding a 12-foot story to the office building occupied by the Commission, corner Sixth and B streets SW.

You will notice that I provide in my estimate for replacing the present attic floor and for certain repairs to the floor timbers which are necessary. This floor is in very bad repair, the timbers drawn out of place, and it is possible that it will require a larger expenditure than that estimated to make it safe. I have added 15 per cent to cover any such contingencies.

A new boiler will be needed, and this together with the necessary steam fittings, radiators, etc., would cost about $1,200. I have included an item of $350 for a new boiler house

It would not be safe to begin such alterations as those proposed without an appropriation of at least $10,000. I should say that including furniture and all fittings, $12,000 would be needed.

Yours respectfully,

C. E. GORHAM,
Architect and Civil Engineer.

Hon. MARSHALL MCDONALD,
U. S. Commissioner of Fish and Fisheries.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., February 16, 1891.

DEAR SIR: I beg to report that the tendency of the floors of this building to settle seems to have recently strengthened to a remarkable degree. Between the rooms occupied by Dr. Gorham and Mr. Bayley the floor has dropped a full inch in the last few days. I think there can be no doubt that the matter is sufficiently serious to warrant removing at once all heavy material stored in the third and fourth stories of the building and taking up without delay the flooring and making a close inspection of the condition of the joists and other timber.

Very respectfully,

J. PAUL WILSON.

Hon. MARSHALL MCDONALD,
U. S. Fish Commissioner, Washington, D. C.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., February 28, 1891.

SIR: I respectfully call the attention of your committee to the estimates of appropriations for the U. S. Fish Commission, required for the fiscal year ending June 30, 1891, and prior years, as forwarded through the honorable Secretary of the Treasury (House Ex. Doc. No. 167, Fifty-first Congress, second session), and to the deficiency bill (H. R. 13658, page 9), wherein provision is made for the first item only, of those submitted.

In regard to the item for office building, Fish Commission, I would state that when the Armory building was adapted for the offices of the U. S. Fish Commission the amount appropriated for the purpose was such as to admit of but the simplest alterations; whereas if proper renovation had been made, the old floors, beams, etc., which had been subjected for many years to heavy strains through overloading, etc., would have been removed. The offices now provided for are not sufficient for the current needs of the Commission, and it is desired that the balance of the third floor of the building, now occupied as workshops for the taxidermists, modelers, etc., of the U. S. National Museum and U. S. Geological Survey, be fitted up for the Commission; and that the attic be arranged for the storage of files, publications, etc., and provision made for the necessary extension of the heating and water apparatus and the proper lighting of the building.

By reason of quite serious settling recently of a portion of the third floor of the building repairs should be made at once, and the opportunity would seem to be favorable for the complete adaptation of the building to the needs of the Commission. I would also call attention to the divided responsibility now attached to the custody of the building, as well as to the character of the work carried on in it by the Smithsonian Institution, which work is at variance with office routine.

The committee will readily appreciate the fact that taxidermical work is, from its nature, productive of considerable odor, dirt, and noise, and should be remote from a building used for office purposes.

Requesting favorable consideration by the committee of the items as submitted, I have the honor to be,

Very respectfully,

M. MCDONALD,
Commissioner.

Hon. W. B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

The following extract was included in the estimates for deficiencies in appropriations for 1891, forwarded to the Secretary of the Treasury on December 10, 1890:

"*Office building, Fish Commission.*—For raising the walls, providing a new roof, and fitting up the interior of the third and attic stories of the Armory building on the Mall, city of Washington, for offices, files, and storage rooms, and their equipment, and for the enlargement and extension of the heating and water apparatus, and the purchase of all necessary gas fixtures, $12,000. And the Secretary of the Smithsonian Institution is hereby required to remove the workshops under his direction, now in the third story of said Armory building, to other buildings under his control, and the whole of said Armory building shall hereafter be under the care and custody of the U. S. Commissioner of Fish and Fisheries. $12,000." (Estimates of appropriations for 1891–1892, sup., p. 7.)

The following extract was included in the estimates for deficiencies in appropriations for 1893 forwarded to Secretary of Treasury, December 19, 1892:

Office building, U. S. Fish Commision.—For new roof, construction of annex for boiler room, coal vault, and fireproof storage room, the purchase and introduction of new boilers for heating and the necessary connections, and for miscellaneous repairs and equipment, $2,500; and the Secretary of the Smithsonian Institution is hereby directed to vacate the rooms under his charge in said building. For fitting up said rooms as offices for the U. S. Fish Commission, $1,400; in all, $3,900.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., April 25, 1893.

DEAR SIR: The safety of the building at the northwest corner of Sixth and B streets SW., this city, occupied as offices, etc., by this Commission, having been questioned, and the case apparently demanding immediate action, I have respectfully to

request that you detail one of the engineers of your office to make an inspection of the building and report thereon. The absence of the engineer of the Commission on field duty is the reason of my trespassing upon your courtesy in the matter.

Very respectfully,

RICHARD RATHBUN,
Acting Commissioner.

The SUPERVISING ARCHITECT,
Treasury Department, Washington, D. C.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., June 3, 1893.

SIR: I am to-day advised that the report of your engineer upon the safety of the building corner of Sixth and B streets SW., occupied as offices by the U. S. Fish Commission, is completed but has not yet been transmitted to this office pending an official request for the examination of the building. In this connection I beg to refer you to the letter addressed you under date of April 25, 1893, by Mr. Richard Rathbun, Acting Commissioner of Fisheries, as also to his letter sent you under date of April 28, 1893, on the same subject.

Very respectfully,

M. MCDONALD,
Commissioner.

The SUPERVISING ARCHITECT,
Treasury Department, Washington, D. C.

TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
Washington, D. C., June 6, 1893.

SIR: In reply to your letter of the 3d instant, I have to advise you that the Fish Commission building has been examined by a representative of this office, from whose report I make the following extract:

"There is no immediate danger to the building from any cause visible at present. The outside walls are in good condition. The roof trusses show slight decay, and in one case 1½ inches settlement. The loft floor sags about 3 inches in 53 feet. No signs of weakness show in girders of floor below the loft. The girders are wood with straps. Posts in second story are wood. All columns below are cast iron. These supports are in good condition. I recommend that no weight be put in the loft; and that, in a short time, it will be advisable to rebuild the roof trusses, including the loft floor."

Respectfully yours,

C. G. KEMPER,
Acting Supervising Architect.

Hon. MARSHALL MCDONALD,
Commissioner U. S. Commission of Fish and Fisheries, Washington, D. C.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., August 9, 1893.

DEAR SIR: In compliance with your request of June 9, relative to an examination as to the safe or unsafe condition of the building now occupied by the U. S. Fish Commission and other branches of the Government, I would respectfully make the following report, in which reference is made to the accompanying blue print:

1. *Foundation.*—The foundation of all walls as well as that of all iron columns supporting the floors does not show the slightest settlement nor any signs of weakness.

2. *Walls.*—The main walls, from foundation up to near attic floor, are straight and plumb, inside and outside, without cracks or other defects. From near attic floor to top of parapet wall there are a number of places where the walls are slightly bulging out. From the investigations made, the primary cause of this is assigned to leakage of the roof and gutter in the rear of the parapet wall; the rain water or melting snow getting into the walls and freezing there in very cold weather, gradually split a shell off the wall wherever the brickwork was not well bonded. Wherever the rafters and tiebeams of roof truss were exposed to this leakage in the roof the timbers are badly rotten and very weak.

The parapet wall, being built over an overhanging cornice, has been exposed on

both sides to the direct influence of the weather for about forty years past, the age of the building, and varies at places 3 inches from a straight line latterly.

3. *Floors.*—(*A*) The first or ground floor is made of stone flagging laid in cement mortar; it is well constructed and in good condition.

(*B*) The second floor rests on 3 by 12 inch joists, which are framed into 12 by 12 inch yellow pine girders, the latter being supported by cast iron columns 7½ inches in diameter, as shown. The workmanship in the framing of the floors is fair, the material sound, and the floor may be loaded safely with 80 pounds per square foot, which is equal to the weight of a crowd of people. To place more weight upon this floor, as per example in storing heavy goods, would endanger the safety of the building.

(*C*) The construction of the third floor was originally intended to be similar to that of the second. By some gross carelessness the so-called joist-carrier strips were left off in the construction of the building and most of the joists have their only support in the notches, which are cut in the girder, of barely three-eighths of an inch, in some places not even one-eighth of an inch, and at one place, viz, the "model room of the Geological Survey," no support whatever. (See detail.) At the latter place the floor joists are actually carried for a short distance by the floor which is nailed into them. The notches in the original 12 by 12 inch girder were three-fourths of an inch deep; by the shrinkage though, of the girder, amounting to nearly three-fourths of an inch, the joists lost all or nearly all their bearing upon the same.

The third floor shows unmistakable signs of having at one time been heavily overloaded, many depressions of over 2 inches existing between the girders. The existing unsafe condition of this floor has been recognized and partly removed some time ago, as a number of heavy iron clamps were secured in the middle floor joists to prevent their leaving the support on the girders entirely. The load which this floor can carry safely is a very variable quantity, ranging from almost nothing to, say, 40 pounds per square foot, depending upon the amount of bearing surface of said joists on said girders. Any storage of heavy goods upon this floor is extremely dangerous, and all jarring upon the floor must be avoided. The material in the girders and joists appear still good.

(*D*) The attic floor as such did not exist in the original construction of the building. There was simply a ceiling suspended from the roof trusses. The present floor rests upon the original 2 by 10 inch ceiling joists with a span of 9½ feet between the tie-beams of the roof trusses and a span of 16 feet each between the two end trusses and walls of the building. The joists are notched into the beams of roof trusses five-eighths of an inch, and have an additional support on a 1 by 4 inch joist-carrier strip nailed to the tie beam. The shrinkage in the tie beams resulted in reducing the bearing of the joists in said notches at a great many places to almost nothing, so that their support is furnished by the carrier strips only. The attic floor while, as before stated, not a part of the original plan of the building, was in 1877, or soon thereafter, more than overloaded, so that it sagged to such an extent that the load upon it had to be removed again and a number of wooden posts erected to secure it in its place. The floor even now, with said posts under the tie beams, is not strong enough to carry a load of, say, 40 pounds per square foot with safety, which precludes all usage of the attic for storage purposes of heavy material. Near the west end of the building the attic floor is at present 6¾ inches lower in the middle than at the walls, and is more or less out of level all along.

(*E*) The roof of the building is carried upon a number of wooden trusses, strongly framed, iron strapped, well bolted together and here and there anchored in the wall. In the graphical representation of the stresses in said trusses a total weight of roof of 50 pounds per square foot was assumed. The truss was found theoretically to be amply strong in all its parts for the purpose intended, but too weak to carry in addition to the roof a heavily loaded floor. In places it is even unsafe, as there is plain evidence of well advanced decay in a number of the tie-beams and rafters, where the ends are resting on the walls. I would mention four places especially where the said decay has gone sufficiently far to make the roof truss, and with it the attic floor, unsafe. These are at A, B, C, and D of appended plans. There the tie beams not only slid bodily over 1½ inches away from their original bed on the wall on account of their sagging in the center, but also settled 1¼ inches by reason of the decay in their end-bearing surface.

A number of the horizontal braces between the roof trusses, which are an essential part of the roof construction, have been removed or dropped out on account of the shrinkage of the truss members, thus reducing the calculated strength of the truss over 75 per centum. The wooden posts under the tie-beams of the roof truss, while they greatly strengthen the attic floor, are not sufficient to render the attic floor strong enough for storing goods, especially so as the ends of some of said tie-beams are partly decayed and unsafe. The rafters of the roof construction are in fair condition, except at those places enumerated above where the roof is leaking and the woodwork became rotten.

Elevator.—The construction of the elevator is obsolete, and only serviceable in a strongly built warehouse. It is subjected to such vibrations in its manipulation that it endangers the safety of the building. Any heavy material hoisted by it brings such concentrated loads upon the roof construction, and causes such jarring of the upper floors, that the already weak condition under their own quiescent load may at any time result in a collapse of a part of the building.

RECOMMENDATIONS.

1. The first defect in the construction of the building above mentioned is the bulging of the upper part of the main walls caused by the leakage of the roof and gutter. The broken slates of the roof should be replaced by new ones, the present gutters and flashing removed and put in anew; estimated cost, $300.

2. The next item of defect is the bad workmanship in the construction of the third floor. This needs the taking up of a large part of the floor and the employment of wrought iron stirrups to support all the floor joists, or the removal of the second story ceiling under all cross girders and the substitution for said stirrups of joist-carrier strips strongly spiked to said girders. All ends of the cross girders should be carefully examined whether or not they show decay in the walls, and if decay is found they should be strengthened by new timbers bolted on underneath and properly bedded in the walls. All heavy material stored at present on said floor should be removed, and I would especially mention the early removal of the large cans of specimens kept in alcohol, the alcohol in store, the large plaster models, and the reduction of the depth of water, which is kept in the cistern at the west end of the hall, to not over 9 inches. The cost of the proposed repairs of the third floor I estimate at $750.

3. The third item of defect above enumerated is the weak condition of the attic floor. This can not well be remedied without reconstruction of the same, together with the reconstruction of the roof trusses which support the attic floor. To render the attic floor safe for the present all heavy material should be removed therefrom, especially at those places above mentioned, where the tie beams are decayed. The height of the water level of the salt-water cistern in the attic should be reduced to not over 9 inches. The cost of a new attic floor would not be less than $1,000.

4. The fourth item of construction in an unsafe condition is that of the roof trusses on account of the shrinkage and decay, as well as that of the posts supporting the trusses and a number of the rafters.

The roof trusses should be renewed entirely and the new ones should be so situated that every second one should be directly over the columns instead of as at present. (See plans.) The columns and girders under the trusses should be 12 by 12-inch timbers instead of 7½ by 7½ inches as at present; the rafters showing decay should be renewed. Should the Commission conclude to rebuild the roof, I would advise that the walls be taken down to the attic floor in order to remedy the above-mentioned bulging of the wall and obtain a solid and secure bearing for the new roof construction.

The cost of the new construction of the roof, including said new part of the wall, will not be less than $3,000.

5. The last item considered herein as faulty in construction is the elevator. I would recommend the erection of a new hydraulic elevator of modern construction in place of the present hoisting platform, which would cost in the vicinity of $1,500, and the discontinuance of the use of the present elevator except for very light weights, and then only under careful manipulation.

6. In addition to the above recommendations, I would mention the suggestion made to me by the chief clerk of the U. S. Fish Commission, Mr. Herbert A. Gill, that the building should be properly protected from danger of fire by the erection of a suitable number of standpipes provided with hose, cocks, etc., on every floor and the roof; and, furthermore, by two iron fire-escapes, with landings on every floor. These last two items would cost about $800.

Recapitulation of estimates of costs for items of repair and construction as recommended.

1. Slates, gutters, flashings	$300
2. Third floor, supports of joists and girders	750
3. Attic floor, new	1,000
4. Roof and part of wall, new	3,000
5. New elevator	1,500
6. Standpipes and fire escapes	800
	7,350
Supervision, contingencies and profit, 20 per cent	1,470
Total	8,820
Estimated cost of present building without repair, etc	45,000

Before concluding this report I would say that even after the recommended repairs and additions are made and the building pronounced safe I consider it unsuitable for the purposes of the U. S. Fish Commission. There should be ample strength on all floors to allow the storage of the large collections of specimens, of the material and apparatus for fish culture, of the numerous cases, books, and publications, and of the tanks needed for the supply of the aquaria. This would require new floors throughout able to withstand a maximum safe load of from 200 to 250 pounds to the square foot, instead of from only 40 to 80 pounds per square foot, as it will when repaired.

Very respectfully,

H. VON BAYER,
Architect and Engineer.

HERBERT A. GILL, Esq.,
Acting Commissioner, U. S. Commission of Fish and Fisheries.

U. S. COMMISSION OF FISH AND FISHERIES,
Washington, D. C., August 21, 1893.

DEAR SIR: Serious fears existing as to the safety of the building occupied as offices by the U. S. Fish Commission, I would respectfully request that you cause an early examination of the same to be made, and ask that I be advised of the result, together with your recommendations.

This request is made of you as the altering and fitting up of the interior of the building, provided for by the act of March 2, 1889, was done under your direction. An early response as to your ability to meet the same will be greatly appreciated.

Very respectfully,

HERBERT A. GILL,
Acting Commissioner.

Hon. EDWARD CLARK,
Architect U. S. Capitol, Washington, D. C.

ARCHITECT'S OFFICE, U. S. CAPITOL,
Washington, D. C., August 24, 1893.

SIR: In compliance with your request of the 21st instant, I have examined the building now occupied by the U. S. Fish Commission as offices, and by the U. S. National Museum as workshops, and have examined the report made upon the condition of this building by Mr. H. von Bayer, architect and engineer, and certain recommendations made by him as to rendering this building more secure for the purposes for which it is now used.

I agree with the statement of the architect relative to the present condition of the building, and approve his recommendations for its repairing and strengthening. I consider the following improvements should be made at once in order to provide for its greater safety:

First. That all articles stored in the loft be taken out.

Second. That measures be taken to insure bearings for the ends of the joists on the girders, and that no additional weight should be imposed upon the other floors of this building which are supported by wooden joists and girders.

Very respectfully yours,

EDWARD CLARK,
Architect, U. S. Capitol.

Mr. HERBERT A. GILL,
Acting Commissioner Fish and Fisheries, Washington, D. C.

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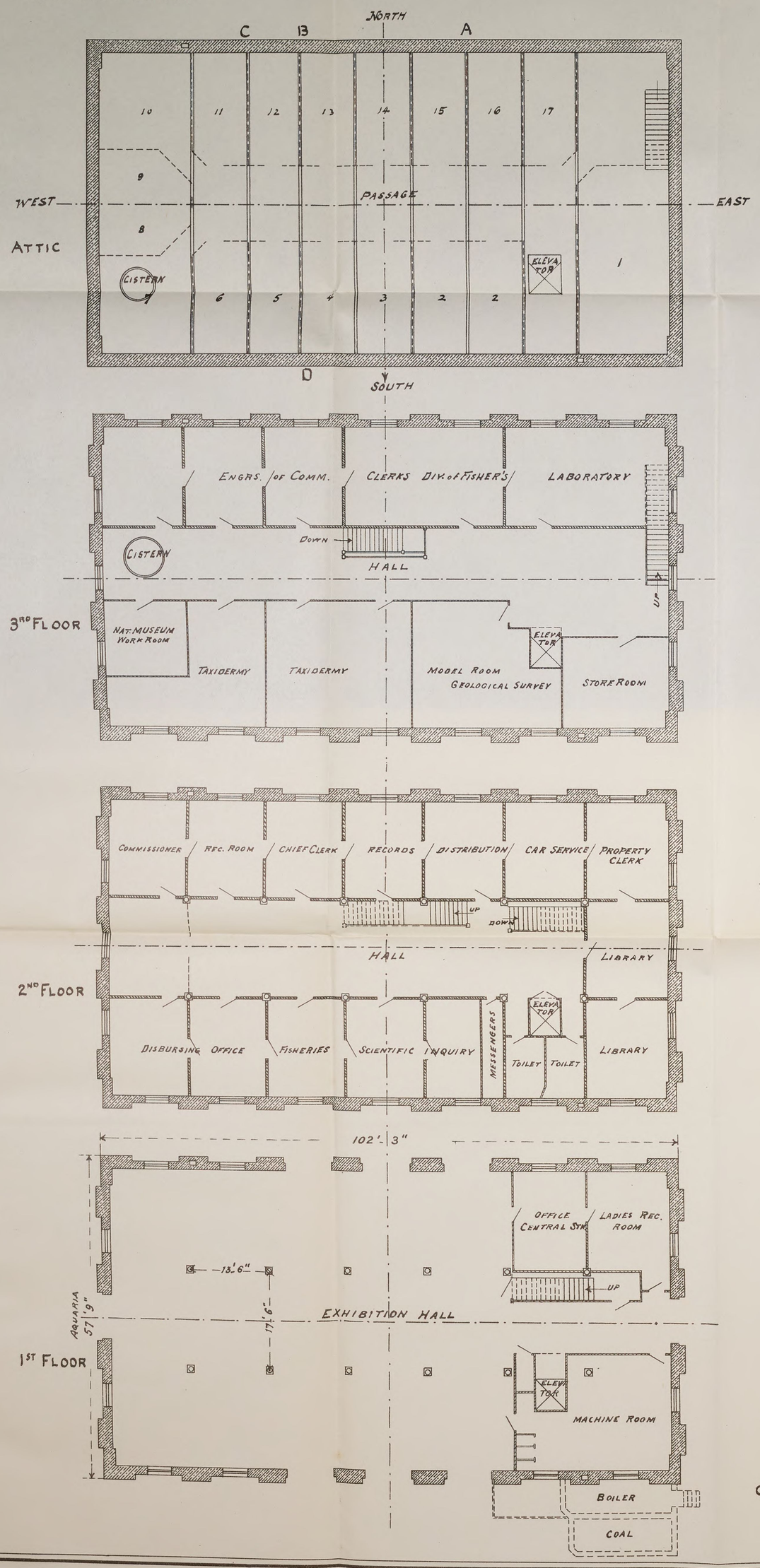
To accompany report of Aug 9th 1893.
H.v.B.

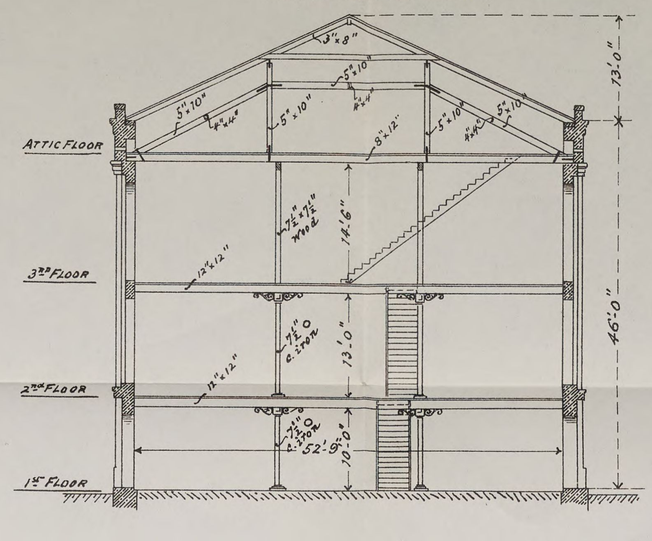
PLANS OF BUILDING OCCUPIED BY THE U.S. FISH COMMISSION.
WASHINGTON, D.C. 1893.

GROUND PLANS.

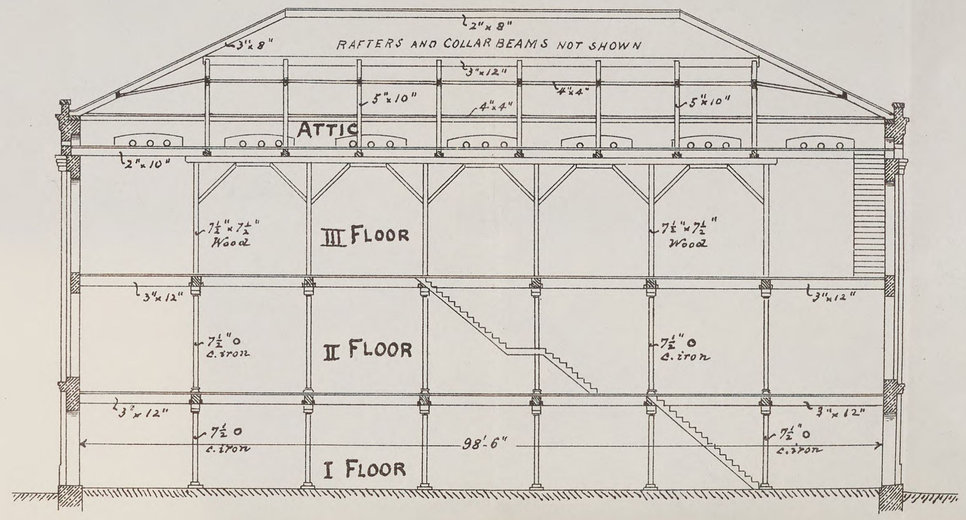


TRANSVERSE SECTION

FLOOR JOISTS NOT SHOWN



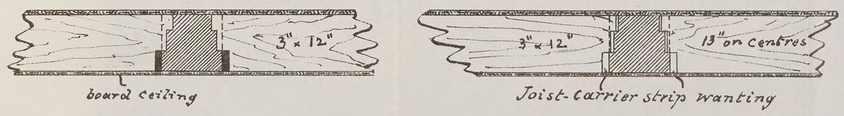
LONGITUDINAL SECTION



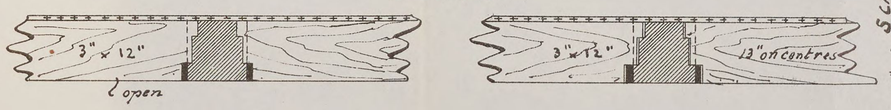
FRAMING, PLANNED — ACTUAL CONDITION

ATTIC FLOOR.

3RD FLOOR.

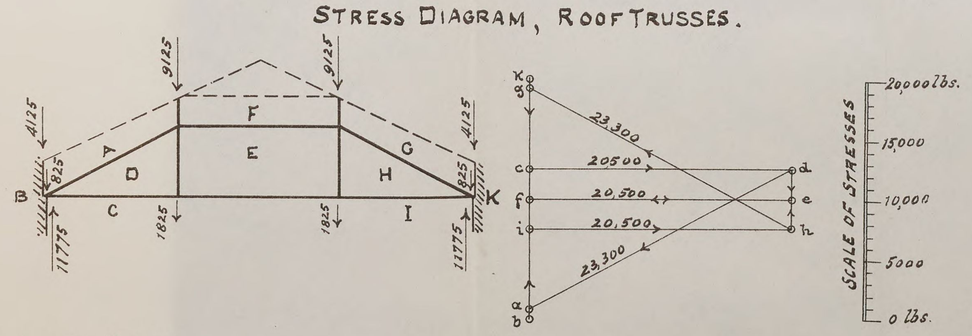


2ND FLOOR.



SCALE OF DETAILS. 1" 0 1/2 1 1 1/2 2 3 4 5 FT.
12" 6 0

STRESS DIAGRAM, ROOF TRUSSES.



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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 8.

OBSTRUCTIONS TO NAVIGATION IN THE COLUMBIA RIVER.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING

A letter from the Chief of Engineers submitting a copy of the report of the Board of Engineers appointed by the President, under authority contained in the river and harbor act of July 13, 1892, as to obstructions to navigation in the Columbia River.

SEPTEMBER 9, 1893.—Referred to the Committee on Rivers and Harbors and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., August 9, 1893.

SIR: I have the honor to transmit herewith a letter from the Chief of Engineers, U. S. Army, dated June 9, 1893, submitting a copy of a report of a Board of Engineers appointed by the President of the United States, under authority contained in the river and harbor act approved July 13, 1892, "to thoroughly examine the obstructions to navigation in the Columbia River, in that portion from the navigable waters thereof below Three Mile Rapids to the navigable waters above the Celilo Falls, and report as soon as they conveniently can to the Secretary of War such plan for overcoming or removing said obstructions as in their opinion is most feasible and best adapted to the necessities of commerce."

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., June 9, 1893.

SIR: Under authority contained in the river and harbor act approved July 13, 1892, the President appointed a Board of Engineers, consisting of Col. G. H. Mendell, Lieut. Col. C. R. Suter, Lieut. Col. W. R. King,

and Maj. Chas. J. Allen, of the Corps of Engineers, and civil engineers Wm. R. Hutton, E. Porter Alexander, and Virgil G. Bogue, to thoroughly examine the obstructions to navigation in the Columbia River, in that portion from the navigable waters below Three Mile Rapids to the navigable waters above Celilo Falls, and report such plan for overcoming or removing said obstructions as in their opinion is most feasible and best adapted to the necessities of commerce.

The report of this board, dated April 12, 1893, has just reached this office, and I have the honor to submit the accompanying copy, with the view to its transmission to Congress.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

HON. DANIEL S. LAMONT,
Secretary of War.

[NOTE.—The Report of the Board of Engineers has been printed as Senate Executive Document No. 7, Fifty-third Congress, first session.]

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53D CONGRESS, *1st Session.* } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 9.

CHINESE EXCLUSION ACT.

LETTER

FROM

THE ATTORNEY-GENERAL,

TRANSMITTING,

Pursuant to House resolution, information relating to instructions issued to United States attorneys, marshals, and other officers of the Department of Justice as to the enforcement of the act of May 5, 1892, together with the number arrested and ordered deported under such act.

SEPTEMBER 25, 1893.—Referred to the Committee on the Judiciary and ordered to be printed.

DEPARTMENT OF JUSTICE,
Washington, D. C., September 23, 1893.

Sir: I have the honor to acknowledge the receipt of the resolution of the House of Representatives requesting me to communicate to the House such instructions as have been forwarded to United States district attorneys, marshals, and other officers of the Department of Justice, relating to the enforcement of the act of May 5, 1892, known as the Chinese exclusion act, together with the number arrested and ordered deported under such act.

Paper A is copy of general letter of instructions issued by this Department on May 4, 1893.

Paper B annexed, is copy of circular of Secretary of the Treasury referred to in paper A.

No other general letter of instructions respecting the subject referred to, to district attorneys and marshals, has been issued by this Department.

May 24, 1893, the Secretary of the Treasury issued a circular to collectors, copy of which is herewith annexed, marked C.

In response to letters of inquiry, from various district attorneys and marshals, made since May 4, 1893, this Department has from time to time stated that the instructions given by the general letter of May 4 were to be construed as applicable solely to the sixth section of the act of May 5, 1892, and that in concurrence with the directions given by the Secretary of the Treasury in his circular of May 24, 1893, all the provisions of law relating to the arrest and prosecution of Chinese laborers who were unable to show that they had been lawfully admitted into the United States were to be vigorously enforced.

September 2, 1893, after a conference with the Secretary of the Treasury and in consequence of representations made to the Treasury Department and to this Department respecting certain proceedings in San Francisco, a telegram was sent to United States Attorney Garter, copy of which is hereto annexed, marked D.

The order of the United States circuit court for the southern district of New York, referred to in the telegram of September 2, is shown by a paper hereto annexed, marked E.

By letter of September 9, 1893, the Secretary of the Treasury informed me that there was available to defray expenses for the arrest and deportation of Chinese found to be unlawfully within the United States under the provisions of the sixth section of the act of May 5, 1892, the sum of $25,000. On the same date, it appearing that Mr. Justice Ross, United States district judge for the southern district of California, had ruled that the court would issue warrants for the arrest of Chinamen under section 6 of the act of May 5, 1892, upon the complaint of private individuals, the following telegram was sent to the United States marshals for the northern and southern districts of California:

> Instructions heretofore given do not apply to warrants of arrest of Chinamen under section 6 of Geary act issued by a court, which are to be executed by yourself and deputies in the ordinary course. Deportation orders in such cases are also to be executed to the extent of available funds. Amount being small, report at once number of cases in your district in which court warrants have been applied for or granted.

September 11, 1893, in answer to inquiry by United States marshal for the southern district of California, relating to Chinamen in his custody under sentence of deportation for being found without certificates of residence, in contravention of the provisions of the sixth section of the act of May 5, 1892, the following telegram was sent:

> Understand that in cases referred to writs of habeas corpus have been applied for and denied and appeals taken. If so, Chinamen can not be deported, but must remain in custody pending appeals. Consult district attorney and see Supreme Court rule one hundred seventeen United States, seven hundred eight.

The number of Chinese arrested and ordered deported under the act of May 5, 1892, has not been furnished to this Department by the marshals of the various districts throughout the United States, and consequently can not be given.

In reply to the telegram of September 9, 1893, Marshal Long, of the northern district of California, reported the issuing of 4 warrants of arrest. September 15, Marshal Gard, of the southern district of California, reported that 62 warrants had been issued under the Geary act, that 45 arrests had been made, and that 20 Chinese had been sentenced to be deported. September 20, Marshal Long telegraphed that one Chinaman had been ordered to be deported.

This statement, with accompanying exhibits, is not, and is not to be, taken as embracing every letter or telegram on the subject referred to which an exhaustive search through the files would show to have been sent in response to inquiries from a district attorney or marshal, but it faithfully and fully represents what has been done by this Department in the matter to which the resolution relates, and gives, I think, all the information intended to be called for by it.

Very respectfully,

RICHARD OLNEY,
Attorney-General.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

A.

DEPARTMENT OF JUSTICE,
Washington, D. C., May 4, 1893.

UNITED STATES ATTORNEY:

In accordance with circular of the Treasury Department to all collectors, dated April 14, 1893, and another circular of this date addressed to collectors of internal revenue, collectors of customs, and all customs officials, copies of which will be sent you, you are advised to defer proceedings under act of May 5, 1892, except under order of court, until necessary arrangements for the arrest, imprisonment, and deportation of persons accused can be perfected, of which due notice will be given you. Communicate this telegram to the United States marshal within your district.

OLNEY,
Attorney-General.

B.

[Circular.]

EXCLUSION OF CHINESE.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 4, 1893.

To collectors of internal revenue, collectors of customs, and all other customs officials of the United States:

The time within which Chinese laborers are required by the act of May 5, 1892, to procure certificates of residence will expire on the 5th day of the present month, and it is evident from the partial reports made to this Department by the collectors of internal revenue that in some of the States and Territories large numbers of such persons have failed or refused to make application as required by the law, but until complete reports are received the names and residences of those who have registered and procured certificates, and who are therefore exempt from arrest, can not be officially known.

Collectors of internal revenue, and collectors of customs, and all other customs officials of the United States are therefore instructed to refrain from making arrests under the provisions of the sixth section of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," until further orders and instructions from this Department.

J. G. CARLISLE,
Secretary.

C.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, May 24, 1893.

SIR: By Department circular, dated the 4th instant, officers of this Department were instructed to refrain from making arrests under the provisions of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," until otherwise directed. This order remains in force so far as it applies to Chinese persons who have failed to obtain certificates of residence under the provisions of the sixth section of said act, but who otherwise would have a right to remain in the United States.

It is known, however, that great numbers of Chinese laborers have entered the United States in violation of the provisions of the act approved May 6, 1882, as amended by the act approved July 5, 1884, and of the act approved October 1, 1888. Many of these persons have obtained admission upon false representations that they were not laborers but merchants, and others have entered clandestinely from contiguous foreign territory.

Inviting your attention to the first, second, third, fourth, and fifth sections of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," which continued in force the provisions of the previous acts prohibiting the coming into this country of Chinese laborers, and provide for the trial, imprisonment, and deportation of such persons who under said laws are found to be not lawfully entitled to remain in the United States, you are directed to use all the means under your control to vigorously enforce said pro-

visions of law and to take such measures as may be necessary to secure the arrest and prosecution of Chinese laborers who are unable to show that they have obtained lawful admission into the United States.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

COLLECTOR OF CUSTOMS.

D.

[Telegram.]

DEPARTMENT OF JUSTICE,
Washington, D. C., September 2, 1893.

U. S. ATTORNEY GARTER,
San Francisco, Cal.:

I am advised by the Secretary of the Treasury that there are no funds to execute Geary law so far as same provides for deportation of Chinamen who have not procured certificates of residence. On that state of facts circuit court of United States for southern district of New York made following order:

"*Ordered*, That [blank] be and he hereby is discharged from the custody of the marshal and ordered to be deported from the United States whenever provision for such deportation shall be made by the proper authorities."

Ask court to make similar order in like cases.

OLNEY,
Attorney-General.

E.

In the matter of the arrest and deportation of Ny Look, a Chinese laborer.

Ny Look, a Chinese laborer, having been arrested in the city of New York on the 24th day of May, 1893, and brought before me, a United States judge, by John W. Jacobus, the marshal of the United States in and for the southern district of New York, as being a Chinese laborer found within the jurisdiction of the United States after the expiration of one year from the passage of the act of Congress approved on the 5th day of May, 1892, and entitled "An act to prohibit the coming of Chinese persons into the United States," without having the certificate of residence required by said act, and it appearing that no provision is made by the act of May 5, 1892, or by any of the acts thereby extended, as to the manner or means by which such Chinamen found without a certificate of residence and therefore not lawfully entitled to be or remain in the United States shall be removed therefrom, and it appearing that no person is appointed by said acts to execute any order which may be made for the deportation of Chinamen,

Now, on motion of Maxwell Evarts, the attorney for the said Ny Look, it is—

Ordered, That the said Ny Look be, and he hereby is, discharged from the custody of said marshal, and ordered to be deported from the United States whenever provision for such deportation shall be made by proper authority.

May 24, 1893.

E. HENRY LACOMBE.

A copy.
[SEAL.]

JOHN A. SHILAS,
Clerk.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 10.

ENFORCEMENT OF THE GEARY LAW.

LETTER

FROM

THE ACTING SECRETARY OF THE TREASURY,

TRANSMITTING,

Pursuant to House resolution of the 22d, information relative to instructions issued to collectors of internal revenue and other officers of the Treasury Department relating to the enforcement of the Geary law.

SEPTEMBER 29, 1893.—Referred to the Committee on Foreign Affairs and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., September 27, 1893.

SIR: I have the honor to acknowledge the receipt of House resolution dated the 22d instant, wherein the Secretary of the Treasury is requested "to enumerate to this House such instructions as have been forwarded to collectors of internal revenue or other officers of the Treasury Department relating to the enforcement of the act of May 5, 1892, known as the Chinese exclusion act, together with the estimated number of Chinese now in this country, the number deported, and the number registered under said act," and in reply to transmit herewith copy of circular dated May 7, 1892, containing the act above referred to and previous acts relating to the exclusion of Chinese; copy of the regulations, dated July 7, 1892, for the issue of certificates of residence to Chinese laborers and others under the act of May 5, 1892; copy of circular dated September 1, 1892, in relation to Chinese exhibitors at the World's Columbian Exposition; copy of the revised regulations for the issue of certificates of residence to Chinese laborers and Chinese persons other than laborers, dated April 8, 1893; copy of circular dated May 4, 1893, instructing customs officers and collectors of internal revenue to refrain from making arrests of Chinese who have failed to register under the provisions of the act of May 5, 1892, and copy of a circular letter dated May 24, 1893, addressed to collectors of customs at the principal ports, modifying the circular last above referred to.

With reference to the estimated number of Chinese now in the United States, I have to say that the latest information on the subject is that contained in the Census Report of 1890, from which it would ap-

pear that the Chinese population in that year was 106,688. The total number of Chinese who registered under the act of May 5, 1892, was 13,243. No Chinese have as yet been deported under said act so far as this Department is advised.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

[Circular.]

EXCLUSION OF CHINESE.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 7, 1892.

To collectors and other officers of the customs:

The act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," and continuing in force for a period of ten years from said date all laws then in force prohibiting and regulating the coming into this country of Chinese persons and persons of Chinese descent, is printed below for the information and guidance of collectors of customs, collectors of internal revenue, Chinese inspectors, and all other persons concerned.

The several acts of Congress upon the subject referred to in said act approved May 5, 1892, are also appended for general information.

The act approved September 13, 1888, being dependent upon the ratification of the then pending treaty with China, which treaty was not ratified, is omitted.

The instructions heretofore prescribed for the guidance of officers whose duty it is to enforce these laws will continue to be observed.

Regulations will be hereafter prescribed as to the certificates which are to be issued within one year from the date of the passage of the act approved May 5, 1892, to Chinese laborers now within the limits of the United States, and to Chinese persons other than laborers having a right to be and remain in the United States, and who may desire to obtain such certificates as evidence of such right.

CHARLES FOSTER,
Secretary.

[PUBLIC NO. 50.]

AN ACT to prohibit the coming of Chinese persons into the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all laws now in force prohibiting and regulating the coming into this country of Chinese persons and persons of Chinese descent are hereby continued in force for a period of ten years from the passage of this act.

SEC. 2. That any Chinese person or person of Chinese descent, when convicted and adjudged under any of said laws to be not lawfully entitled to be or remain in the United States, shall be removed from the United States to China, unless he or they shall make it appear to the justice, judge, or commissioner before whom he or they are tried that he or they are subjects or citizens of some other country, in which case he or they shall be removed from the United States to such country: *Provided*, That in any case where such other country of which such Chinese person shall claim to be a citizen or subject shall demand any tax as a condition of the removal of such person to that country, he or she shall be removed to China.

SEC. 3. That any Chinese person or person of Chinese descent arrested under the provisions of this act or the acts hereby extended shall be adjudged to be unlawfully within the United States unless such person shall establish, by affirmative proof, to the satisfaction of such justice, judge, or commissioner, his lawful right to remain in the United States.

SEC. 4. That any such Chinese person or person of Chinese descent convicted and adjudged to be not lawfully entitled to be or remain in the United States shall be imprisoned at hard labor for a period of not exceeding one year and thereafter removed from the United States, as hereinbefore provided.

SEC. 5. That after the passage of this act, on an application to any judge or court of the United States in the first instance for a writ of habeas corpus, by a Chinese person seeking to land in the United States, to whom that privilege has been denied, no bail shall be allowed, and such application shall be heard and determined promptly without unnecessary delay.

SEC. 6. And it shall be the duty of all Chinese laborers within the limits of the United States at the time of the passage of this act, and who are entitled to remain in the United States, to apply to the collector of internal revenue of their respective districts, within one year after the passage of this act, for a certificate of residence, and any Chinese laborer within the limits of the United States who shall neglect, fail, or refuse to comply with the provisions of this act, or who, after one year from the passage hereof, shall be found within the jurisdiction of the United States without such certificate of residence, shall be deemed and adjudged to be unlawfully within the United States, and may be arrested by any United States customs official, collector of internal revenue or his deputies, United States marshal or his deputies, and taken before a United States judge, whose duty it shall be to order that he be deported from the United States as hereinbefore provided, unless he shall establish clearly to the satisfaction of said judge that by reason of accident, sickness, or other unavoidable cause, he has been unable to procure his certificate, and to the satisfaction of the court, and by at least one credible white witness, that he was a resident of the United States at the time of the passage of this act; and if upon the hearing it shall appear that he is so entitled to a certificate, it shall be granted upon his paying the cost. Should it appear that said Chinaman had procured a certificate which has been lost or destroyed, he shall be detained and judgment suspended a reasonable time to enable him to procure a duplicate from the officer granting it, and in such cases the cost of said arrest and trial shall be in the discretion of the court. And any Chinese person, other than a Chinese laborer, having a right to be and remain in the United States, desiring such certificate as evidence of such right, may apply for and receive the same without charge.

SEC. 7. That immediately after the passage of this act the Secretary of the Treasury shall make such rules and regulations as may be necessary for the efficient execution of this act, and shall prescribe the necessary forms and furnish the necessary blanks to enable collectors of internal revenue to issue the certificates required hereby, and make such provisions that certificates may be procured in localities convenient to the applicants. Such certificates shall be issued without charge to the applicant, and shall contain the name, age, local residence, and occupation of the applicant, and such other description of the applicant as shall be prescribed by the Secretary of the Treasury, and a duplicate thereof shall be filed in the office of the collector of internal revenue for the district within which such Chinaman makes application.

SEC. 8. That any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in such certificate, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars or imprisoned in the penitentiary for a term of not more that five years.

SEC. 9. The Secretary of the Treasury may authorize the payment of such compensation in the nature of fees to the collectors of internal revenue, for services performed under the provisions of this act, in addition to salaries now allowed by law, as he shall deem necessary, not exceeding the sum of one dollar for each certificate issued.

Approved May 5, 1892.

AN ACT to execute certain treaty stipulations relating to Chinese.

Whereas, in the opinion of the Government of the United States, the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the expiration of ninety days next after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said ninety days, to remain within the United States.

SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land or permit to be landed, any Chinese laborer,

from any foreign port or place, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may be also imprisoned for a term not exceeding one year.

SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: *Provided*, That all Chinese laborers brought on such vessel shall depart with the vessel on leaving port.

*[SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and in order to furnish them with the proper evidence of their right to go from and come to the United States of their free will and accord, as provided by the treaty between the United States and China dated November seventeenth, eighteen hundred and eighty, the collector of customs of the district from which any such Chinese laborer shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese laborer and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese laborers, which shall be entered in registry books to be kept for that purpose, in which shall be stated the name, age, occupation, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such Chinese laborers, which books shall be safely kept in the custom-house; and every such Chinese laborer so departing from the United States shall be entitled to, and shall receive, free of any charge or cost upon application therefor, from the collector or his deputy, at the time such list is taken, a certificate, signed by the collector or his deputy and attested by his seal of office, in such form as the Secretary of the Treasury shall prescribe, which certificate shall contain a statement of the name, age, occupation, last place of residence, personal description, and facts of identification of the Chinese laborer to whom the certificate is issued, corresponding with the said list and registry in all particulars. In case any Chinese laborer after having received such certificate shall leave such vessel before her departure he shall deliver his certificate to the master of the vessel, and if such Chinese laborer shall fail to return to such vessel before her departure from port the certificate shall be delivered by the master to the collector of customs for cancellation. The certificate herein provided for shall entitle the Chinese laborer to whom the same is issued to return to and re-enter the United States upon producing and delivering the same to the collector of customs of the district at which such Chinese laborer shall seek to re-enter; and upon delivery of such certificate by such Chinese laborer to the collector of customs at the time of re-entry in the United States, said collector shall cause the same to be filed in the custom-house and duly canceled.]

*[SEC. 5. That any Chinese laborer mentioned in section four of this act being in the United States, and desiring to depart from the United States by land, shall have the right to demand and receive, free of charge or cost, a certificate of identification similar to that provided for in section four of this act to be issued to such Chinese laborers as may desire to leave the United States by water; and it is hereby made the duty of the collector of customs of the district next adjoining the f reign country to which said Chinese laborer desires to go to issue such certificate, free of charge or cost, upon application by such Chinese laborer, and to enter the same upon registry books to be kept by him for the purpose, as provided for in section four of this act.]

SEC. 6. That in order to the faithful execution of articles one and two of the treaty in this act before mentioned, every Chinese person other than a laborer who may be entitled by said treaty and this act to come within the United States, and who shall be about to come to the United States, shall be identified as so entitled by the Chinese Government in each case, such identity to be evidenced by a certificate issued under the authority of said Government, which certificate shall be in the English language or (if not in the English language) accompanied by a translation into English, stating such right to come, and which certificate shall state the name, title, or

*See act approved October 1. 1888, which prohibits the issuance of certificates of identity of Chinese laborers and declares void such certificates theretofore issued.

official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, and place of residence in China of the person to whom the certificate is issued and that such person is entitled conformably to the treaty in this act mentioned to come within the United States. Such certificate shall be prima facie evidence of the fact set forth therein, and shall be produced to the collector of customs, or his deputy, of the port in the district in the United States at which the person named therein shall arrive.

SEC. 7. That any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate or forge any such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and imprisoned in a penitentiary for a term of not more than five years.

SEC. 8. That the master of any vessel arriving in the United States from any foreign port or place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law, in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessels shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time. Such lists shall show the names of such passengers (and if accredited officers of the Chinese Government traveling on the business of that Government, or their servants, with a note of such facts), and the names and other particulars, as shown by their respective certificates; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo. Any willful refusal or neglect of any such master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect to report and deliver a manifest of the cargo.

SEC. 9. That before any Chinese passengers are landed from any such vessel, the collector or his deputy shall proceed to examine such passengers, comparing the certificates with the list and with the passengers; and no passenger shall be allowed to land in the United States from such vessel in violation of law.

SEC. 10. That every vessel whose master shall knowingly violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter or in which she may be found.

SEC. 11. That any person who shall knowingly bring into or cause to be brought into the United States by land, or who shall knowingly aid or abet the same, or aid or abet the landing in the United States from any vessel of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined in a sum not exceeding one thousand dollars, and imprisoned for a term not exceeding one year.

SEC. 12. That no Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States.

SEC. 13. That this act shall not apply to diplomatic and other officers of the Chinese Government traveling upon the business of that Government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons.

SEC. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

SEC. 15. That the words "Chinese laborers," wherever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Approved, May 6, 1882.

AN ACT to amend an act entitled "An act to execute certain treaty stipulations relating to Chinese, approved May sixth, eighteen hundred and eighty-two."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of the act entitled "An act to execute certain treaty stipulations relating to Chinese," approved May sixth, eighteen hundred and eighty-two, is hereby amended so as to read as follows:

Whereas in the opinion of the Government of the United States the coming of Chi-

nese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended, and during such suspension it shall not be lawful for any Chinese laborer to come from any foreign port or place, or having so come to remain within the United States."

Section two of said act is hereby amended so as to read as follows:

"SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land, or attempt to land, or permit to be landed any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may also be imprisoned for a term not exceeding one year."

Section three of said act is hereby amended so as to read as follows:

"SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of the act to which this act is amendatory, nor shall said sections apply to Chinese laborers, who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: *Provided,* That all Chinese laborers brought on such vessel shall not be permitted to land except in case of absolute necessity, and must depart with the vessel on leaving port."

Section four of said act is hereby amended so as to read as follows:

*["SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of the act to which this act is amendatory, and in order to furnish them with the proper evidence of their right to go from and come to the United States as provided by the said act and the treaty between the United States and China dated November seventeenth, eighteen hundred and eighty, the collector of customs of the district from which any such Chinese laborer shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese laborer, and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese laborers, which shall be entered in registry-books to be kept for that purpose, in which shall be stated the individual, family, and tribal name in full, the age, occupation, when and where followed, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each such Chinese laborers, which books shall be safely kept in the custom-house; and every such Chinese laborer so departing from the United States shall be entitled to and shall receive, free of any charge or cost upon application therefor, from the collector or his deputy, in the name of said collector and attested by said collector's seal of office, at the time such list is taken, a certificate, signed by the collector or his deputy and attested by his seal of office, in such form as the Secretary of the Treasury shall prescribe, which certificate shall contain a statement of the individual, family, and tribal name in full, age, occupation, when and where followed, of the Chinese laborer to whom the certificate is issued, corresponding with the said list and registry in all particulars. In case any Chinese laborer, after having received such certificate, shall leave such vessel before her departure, he shall deliver his certificate to the master of the vessel; and if such Chinese laborer shall fail to return to such vessel before her departure from port, the certificate shall be delivered by the master to the collector of customs for cancellation. The certificate herein provided for shall entitle the Chinese laborer to whom the same is issued to return to and re-enter the United States upon producing and delivering the same to the collector of customs of the district at which such Chinese laborer shall seek to re-enter, and said certificate shall be the only evidence permissible to establish his right of re-entry; and upon delivering of such certificate by such Chinese laborer to the collector of customs at the time of re-entry in the United States, said collector shall cause the same to be filed in the custom-house and duly canceled."]

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* See act approved October 1, 1888, which prohibits the issuance of certificates of identity of Chinese laborers, and declares void such certificates theretofore issued

Section six of said act is hereby amended so as to read as follows:

"SEC. 6. That in order to the faithful execution of the provisions of this act, every Chinese person other than a laborer, who may be entitled by said treaty or this act to come within the United States, and who shall be about to come to the United States shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate issued by such government, which certificate shall be in the English language and shall show such permission, with the name of the permitted person in his or her proper signature, and which certificate shall state the individual, family, and tribal name in full, title or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, when and where and how long pursued, and place of residence of the person to whom the certificate is issued, and that such person is entitled by this act to come within the United States. If the person so applying for a certificate shall be a merchant said certificate shall, in addition to above requirements, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application as aforesaid: *Provided*, That nothing in this act nor in said treaty shall be construed as embracing within the meaning of the word 'merchant,' hucksters, peddlers, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation. If the certificate be sought for the purpose of travel for curiosity, it shall also state whether the applicant intends to pass through or travel within the United States, together with his financial standing in the country from which such certificate is desired. The certificate provided for in this act, and the identity of the person named therein, shall, before such person goes on board any vessel to proceed to the United States, be vised by the indorsement of the diplomatic representatives of the United States in the foreign country from which said certificate issues, or of the consular representative of the United States at the port or place from which the person named in the certificate is about to depart; and such diplomatic representative or consular representative whose indorsement is so required is hereby empowered, and it shall be his duty, before indorsing such certificate as aforesaid, to examine into the truth of the statements set forth in said certificate, and if he shall find upon examination that said or any of the statements therein contained are untrue it shall be his duty to refuse to indorse the same. Such certificate vised as aforesaid shall be prima facie evidence of the facts set forth therein, and shall be produced to the collector of customs of the port in the district in the United States at which the person named therein shall arrive, and afterward produced to the proper authorities of the United States whenever lawfully demanded, and shall be the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disproved by the United States authorities."

Section eight of said act is hereby amended so as to read as follows:

"SEC. 8. That the master of any vessel arriving in the United States from any foreign port or place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessels shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time. Such list shall show the names of such passengers (and if accredited officers of the Chinese or of any other foreign government, traveling on the business of that government, or their servants, with a note of such facts) and the names and other particulars as shown by their respective certificates; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo. Any refusal or willful neglect of any such master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect to report and deliver a manifest of the cargo."

Section ten of said act is hereby amended so as to read as follows:

"SEC. 10. That every vessel whose master shall knowingly violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter or in which she may be found."

Section eleven of said act is hereby amended so as to read as follows:

"SEC. 11. That any person who shall knowingly bring into or cause to be brought into the United States by land, or who shall aid or abet the same, or aid or abet the landing in the United States from any vessel, of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and

shall, on conviction thereof, be fined in a sum not exceeding one thousand dollars, and imprisoned for a term not exceeding one year."

Section twelve of said act is hereby amended so as to read as follows:

"SEC. 12. That no Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel; and any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or to remain in the United States; and in all such cases the person who brought or aided in bringing such person to the United States shall be liable to the Government of the United States for all necessary expenses incurred in such investigation and removal; and all peace officers of the several States and Territories of the United States are hereby invested with the same authority as a marshal or United States marshal in reference to carrying out the provisions of this act or the act of which this is amendatory, as a marshal or deputy marshal of the United States, and shall be entitled to like compensation to be audited and paid by the same officers; and the United States shall pay all costs and charges for the maintenance and return of any Chinese person having the certificate prescribed by law as entitling such Chinese person to come into the United States who may not have been permitted to land from any vessel by reason of any of the provisions of this act."

Section thirteen of said act is hereby amended so as to read as follows:

"SEC. 13. That this act shall not apply to diplomatic and other officers of the Chinese or other governments traveling upon the business of that government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons."

Section fifteen of said act is hereby amended so as to read as follows:

"SEC. 15. That the provisions of this act shall apply to all subjects of China and Chinese, whether subjects of China or any other foreign power, and the words Chinese laborers, wherever used in this act shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining."

SEC. 16. That any violation of any of the provisions of this act, or of the act of which this is amendatory, the punishment of which is not otherwise herein provided for, shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment for not more than one year, or both such fine and imprisonment.

SEC. 17. That nothing contained in this act shall be construed to affect any prosecution or other proceeding criminal or civil, begun under the act of which this is amendatory; but such prosecution or other proceeding, criminal or civil, shall proceed as if this act had not been passed.

Approved, July 5, 1884.

AN ACT a supplement to an act entitled "An act to execute certain treaty stipulations relating to Chinese," approved the sixth day of May, eighteen hundred and eighty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, it shall be unlawful for any Chinese laborer who shall at any time heretofore have been, or who may now or hereafter be, a resident within the United States, and who shall have departed, or shall depart, therefrom, and shall not have returned before the passage of this act, to return to, or remain in, the United States.

SEC. 2. That no certificates of identity provided for in the fourth and fifth sections of the act to which this is a supplement shall hereafter be issued; and every certificate heretofore issued in pursuance thereof is hereby declared void and of no effect, and the Chinese laborer claiming admission by virtue thereof shall not be permitted to enter the United States.

SEC. 3. That all the duties prescribed, liabilities, penalties, and forfeitures imposed, and the powers conferred by the second, tenth, eleventh, and twelfth sections of the act to which this is a supplement are hereby extended and made applicable to the provisions of this act.

SEC. 4. That all such part or parts of the act to which this is a supplement as are inconsistent herewith are hereby repealed.

Approved, October 1, 1888.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 8, 1892.

To collectors of internal revenue:

Section 6 of the act of Congress approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," provides that it shall be the duty of all Chinese laborers within the limits of the United States at the time of the passage of this act, and who are entitled to remain in the United States, to apply to the collector of internal revenue of their respective districts within one year after the passage of this act for a certificate of residence.

Section 7 of said act provides that such certificates shall be issued without charge to the applicant, and shall contain the name, age, legal residence, and occupation of the applicant, and such other description of the applicant as shall be prescribed by the Secretary of the Treasury, and a duplicate thereof shall be filed in the office of the collector of internal revenue for the district in which such Chinaman makes application.

The honorable Secretary has issued the accompanying rules and regulations, deemed necessary by him for the execution of this act, and copies of such regulations will be furnished to collectors of internal revenue. Certificates are being prepared and will be forwarded to collectors upon requisitions made by letter to this office.

Collectors of internal revenue are hereby required to see that certificates of residence are issued to such Chinese persons as are entitled to them, and to deliver such certificates in localities convenient to the applicants. Collectors will be careful to accurately fill out the original and duplicate certificates and the stubs thereof, and to see that a correct photograph of the applicant is attached to the original and duplicate certificate, and also to the application.

The duplicate certificate and the application will be kept on file in the office of the collector in whose district the applicant resides.

The stubs, properly filled out, will be forwarded to this office as soon as the certificates contained in book are consumed.

At the close of business on May 5, 1893, all books of certificates wholly or partially used will be promptly returned to this office, with the stubs of the certificates issued therefrom correctly filled out.

JOHN W. MASON,
Commissioner.

REGULATIONS FOR THE ISSUE OF CERTIFICATES OF RESIDENCE TO CHINESE LABORERS, AND CHINESE PERSONS OTHER THAN LABORERS, UNDER THE PROVISIONS OF THE ACT OF MAY 5, 1892.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., July 7, 1892.

Section 7 of the act of Congress approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," provides "that immediately after the passage of this act the Secretary of the Treasury shall make such rules and regulations as may be necessary for the efficient execution of this act, and shall prescribe the necessary forms and furnish the necessary blanks to enable the collectors of internal revenue to issue the certificates required hereby, and make such provision that certificates may be procured in localities convenient to the applicants," etc.

In accordance with the foregoing authority, the following rules and regulations are prescribed for the purposes therein indicated, to wit:

APPLICATIONS FOR CERTIFICATES OF RESIDENCE.

Collectors of internal revenue will receive applications on the following form, at their own offices, from such Chinese as are conveniently located thereto, and will cause their deputies to proceed to the towns or cities in their respective divisions where any considerable number of Chinese are residing, for the purpose of receiving applications.

No. —

Application of Chinese laborer (or Chinese person other than laborer) for certificate of residence under act of May 5, 1892.

I, ——— ———, a Chinese, ——— hereby make application to the collector of internal revenue for the ——— district of ——— for a certificate of residence under the provisions of the act of Congress approved May 5, 1892, and state that I arrived in the United States on the ——— day of ———, 18—, at the port of ———, per ———

and that I was lawfully within the limits of the United States residing at ———, ——, on the 5th day of May, 1892. That my age was —— years on my last birthday, and that my present local residence is at ———, and my occupation is ———.

I further state that a true photographic likeness of myself is affixed to this application.

(Sign here.) ——— ———,

Subscribed and sworn to before me this———day of———, 189—, at ———, ——.

———— ————,

Deputy Collector Internal Revenue, ——— *District* ———.

[Photograph to be affixed here.]

NOTE.—If the applicant can sign his name in English it is preferred that he should do so. If he can not sign in English let him sign in Chinese characters, the deputy collector in that case writing the English equivalent underneath the signature. If the applicant can not write his name at all let him make his mark in the usual form.

No applications will be received later than May 5, 1893.

Collectors and deputies will give such notice through leading Chinese, or by notices posted in the Chinese quarter of the various localities, as will be sufficient to apprise all Chinese residing in their districts of their readiness to receive applications and the time and place where they may be made.

All applications received by deputies must be forwarded to the collector's office, from whose office all certificates of residence will be issued, and sent to the deputy for delivery.

PHOTOGRAPHS.

Every applicant will be required to furnish three unmounted photographic likenesses of himself or herself, one to be affixed to the application and two to be affixed to the certificate of residence, one to the original and one to the duplicate. These photographs will be securely affixed to the papers by strongly adhesive paste. Great care will be taken in receiving the photographs to see that they accurately represent the features of the applicant.

If the collector or his deputies have any doubt in regard to the correctness of the photograph presented, they will refuse to receive the application and require a correct one.

The photographs shall be sun pictures, such as are usually known as card photographs, of sufficient size and distinctness to plainly and accurately represent the entire face of the applicant, the head to be not less than 1½ inches from base of hair to base of chin. No tintype or other metal picture will be received.

AFFIDAVITS OF WITNESSES.

The affidavits of two credible witnesses of good character to the fact of residence and lawful status within the United States must be furnished with every application. These affidavits shall be, in substance, as follows:

Affidavits of witnesses to application of Chinese laborer (or Chinese person other than laborer) for certificate of residence.

We, ——— ———, residing at ———, ——, do solemnly swear that we are well acquainted with ——— ———, a Chinese ———, whose application for a certificate of residence is set forth on a preceding page; that we know of our own knowledge that on the 5th day of May, 1892, said ——— ——— was within the limits of the United States, residing at ———, and we are informed and verily believe that said ——— ——— arrived in the United States on the ——— day of ———, 18—, per ———, and was lawfully within the United States on said 5th day of May, 1892; that the said applicant now resides at ———, and is by occupation a ———, and that the photograph affixed to the foregoing application is a correct likeness of said applicant.

Signature of witnesses: ——— ———.

——— ———.

Subscribed and sworn to before me this ——— day of ———, 189—.

———— ————,

Deputy Collector Internal Revenue,

——— *District of* ———.

If the applicant is unable to furnish such witnesses satisfactory to the collector or his deputy, his applicalion will be rejected, unless he shall furnish other proof of his right to remain in the United States, in which case the application, with the

proofs presented, shall be forwarded to the commissioner of internal revenue for his decision.

The witnesses must appear before the collector or his deputy, and be fully questioned in regard to their testimony before being sworn.

ISSUE OF CERTIFICATES OF RESIDENCE.

Certificates of residence in the following form will be furnished, bound in books of one hundred each, and numbered consecutively from 1 upwards, to wit:

(Original.)

No. ——.

UNITED STATES OF AMERICA.

Certificate of residence issued to Chinese laborer (or Chinese person other than laborer) under the provisions of the act of May 5, 1892.

This is to certify that —— ——, a Chinese ——, now residing at ——, has made application, No. ——, to me for a certificate of residence under the provisions of the act of Congress approved May 5, 1892, and I certify that it appears from the affidavits of witnesses submitted with said application that said —— —— was within the limits of the United States at the time of the passage of said act, and was then residing at ——, and that he was at that time lawfully entitled to remain in the United States, and that the following is a descriptive list of said Chinese ——:

Name.	Age.	Local residence.	Occupation.	Height.	Color of eyes.	Complexion.	Physical marks or peculiarities for identification.

And as a further means of identification I have affixed hereto a photographic likeness of said —— ——.

Given under my hand and seal this —— day of ——, 189—, at ——, State of ——.

[COLLECTOR'S SEAL.]

——— ———,
Collector of Internal Revenue,
——— *District of* ———.

[Photograph to be affixed here.]

(Stub.)

Name.
Age.
Local residence.
Occupation.
Height.
Color of eyes.
Complexion.
Physical marks or peculiarities for identification.

The original, duplicate, and stub will be printed on one page, so that the original and duplicate can be cut off, leaving the stub in the book.

All books of certificates must be kept in the collector's office and all certificates must be issued from there.

All certificates must be accounted for, and if any certificate is destroyed before being issued an affidavit must be attached to the book in which it was contained showing the facts in regard to its destruction.

After signing the certificate, and before issue, the collector must affix his official seal thereto in such a manner that part of the seal impression will be made on the photograph, and, in addition thereto, he will write across the photograph in red ink (but not across the features) the number of the certificate and the name of the Chinese person.

ISSUE OF CERTIFICATES OF RESIDENCE TO CHINESE PERSONS OTHER THAN LABORERS.

The same forms will be used in issuing certificates of residence to Chinese persons other than laborers as are used in issuing certificates to laborers, by inserting between the words "Chinese" and "laborers," wherever they should occur in said forms, the words "person other than," a blank space being provided in each form sufficient to admit of writing the four words "person other than laborer."

ISSUE OF DUPLICATE ORIGINAL CERTIFICATES.

In all cases of loss or destruction of original certificates of residence where it can be established to the satisfaction of the collector of the district in which the certificate was issued that such loss or destruction was accidental and without fault or negligence on the part of the applicant, a duplicate of the original may be issued under the same conditions that governed the original issue. Across the face of each of such duplicates so issued and the stub thereof the collector shall write, in red ink, the words "Issued in lieu of original certificate No. ———, which, upon evidence submitted, appears to have been unavoidably lost" [or destroyed, as the case may be], to which shall be attached the collector's official signature. And upon the issue of every such duplicate certificate the collector shall, by circular letter, report the fact to the office of the Commissioner of Internal Revenue and to each collector of internal revenue, embracing in such report the serial number of the certificate for which the duplicate was issued and the name and personal description of the person to whom issued, as appearing in the original application.

COLLECTOR'S RECORD OF CERTIFICATES ISSUED.

Collectors of internal revenue will keep in their offices an alphabetical record of all certificates of residence issued. A suitable book for this purpose will be prepared by the Treasury Department and furnished to collectors in due time.

DEFINITIONS.

The persons referred to in the acts of Congress to which these regulations apply, and whose immigration into the United States is prohibited, are limited to Chinese laborers. No class of Chinese are prohibited from coming into the United States, or remaining here, except such as may properly and within the meaning of said statutes be known as "laborers." But persons other than laborers must present as a condition precedent to landing the certificate required by section 6 of the act approved July 5, 1884.

Collectors of internal revenue and their deputies are instructed that all classes of skilled and unskilled laborers, and persons employed in mining, as well as hucksters, peddlers, and persons engaged in taking and drying or otherwise preserving shells or fish for home consumption or exportation and laundrymen shall be classed as laborers. Persons who are employed in stores but who are not owners or part owners in the business shall be classed as laborers. A person to be exempted from the operations of this law as a merchant must be an owner or part owner of a bona fide mercantile establishment.

CHARLES FOSTER,
Secretary.

[Circular.]

CHINESE EXHIBITORS AT THE WORLD'S COLUMBIAN EXPOSITION.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., September 1, 1892.

To collectors and other officers of the customs:

In a joint resolution of Congress approved August 5, 1892, it is provided: "* * * and the acts of Congress prohibiting the coming of Chinese persons into the United States, and the acts amendatory of these acts, shall not be so construed, nor shall anything therein operate to prevent, hinder, or in anywise restrict any foreign exhibitor, representative, or citizen of a foreign nation or the holder who is a citizen of a foreign nation of any concession or privilege from the World's Columbian Exposition, from bringing into the United States, under contract, such mechanics, artisans, agents, or other employés, natives of their respective foreign countries, as they, or any of them, may deem necessary for the purpose

of making preparation for installing or conducting their exhibits, or of preparing for installing or conducting any business authorized or permitted under or by virtue of or pertaining to any concession or privilege which may have been granted by the World's Columbian Exposition in connection with such Exposition." * * *

In pursuance of said joint resolution collectors of customs at ports where Chinese persons, who are exhibitors or employés of exhibitors at the World's Columbian Exposition, may first arrive, are instructed to admit such persons upon the presentation to them of satisfactory evidence that they are bona fide exhibitors or employés whose services are required by such exhibitors at the Exposition.

In such cases the certificate required by the sixth section of the act approved May 6, 1882, as amended by the act approved July 5, 1884, will not be required.

CHARLES FOSTER,
Secretary.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., April 8, 1893.

To collectors of internal revenue:

Section 6 of the act of Congress approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," provides that it shall be the duty of all Chinese laborers within the limits of the United States at the time of the passage of this act, and who are entitled to remain in the United States, to apply to the collector of internal revenue of their respective districts within one year after the passage of this act for a certificate of residence.

Section 7 of said act provides that such certificates shall be issued without charge to the applicant, and shall contain the name, age, legal residence, and occupation of the applicant, and such other description of the applicant as shall be prescribed by the Secretary of the Treasury, and a duplicate thereof shall be filed in the office of the collector of internal revenue for the district in which such Chinaman makes application.

The honorable Secretary has issued the accompanying revised rules and regulations, deemed necessary by him for the execution of this act, and copies of such regulations will be furnished to collectors of internal revenue.

Collectors of internal revenue are hereby required to see that certificates of residence are issued to such Chinese persons as are entitled to them, and to deliver such certificates in localities convenient to the applicants. Collectors will be careful to accurately fill out the original and duplicate certificates and the stubs thereof.

The duplicate certificate and the application will be kept on file in the office of the collector in whose district the applicant resides.

The stubs, properly filled out, will be forwarded to this office as soon as the certificates contained in book are consumed.

At the close of business on May 5, 1893, all books of certificates wholly or partially used will be promptly returned to this office, with the stubs of the certificates issued therefrom correctly filled out.

JOHN W. MASON,
Commissioner.

REGULATIONS FOR THE ISSUE OF CERTIFICATES OF RESIDENCE TO CHINESE LABORERS, AND CHINESE PERSONS OTHER THAN LABORERS, UNDER THE PROVISIONS OF THE ACT OF MAY 5, 1892.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 8, 1893.

Section 7 of the act of Congress approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," provides "that immediately after the passage of this act the Secretary of the Treasury shall make such rules and regulations as may be necessary for the efficient execution of this act, and shall prescribe the necessary forms and furnish the necessary blanks to enable the collectors of internal revenue to issue the certificates required hereby, and make such provision that certificates may be procured in localities convenient to the applicants," etc.

In accordance with the foregoing authority, the following rules and regulations are prescribed for the purposes therein indicated, to wit:

APPLICATIONS FOR CERTIFICATES OF RESIDENCE.

Collectors of internal revenue will receive applications on the following form, at their own offices, from such Chinese as are conveniently located thereto, and will

cause their deputies to proceed to the towns or cities in their respective divisions where any considerable number of Chinese are residing, for the purpose of receiving applications:

No. —.

Application of Chinese laborer (or Chinese person other than laborer) for certificate of residence under act of May 5, 1892.

I, ——— ———, a Chinese ———, hereby make application to the collector of internal revenue for the ——— district of ——— for a certificate of residence under the provisions of the act of Congress approved May 5, 1892, and state that I arrived in the United States on the ——— day of ———, 18—, at the port of ———, per ———, and that I was lawfully within the limits of the United States residing at ———, ——, on the 5th day of May, 1892. That my age was —— years on my last birthday, and that my present local residence is at ———, and my occupation is ———.

(Sign here.) ——— ———.

Subscribed and sworn to before me this ——— day of ———, 189—, at ———, ——.

———— ————,

Deputy Collector Internal Revenue, ——— District ———.

No applications will be received later than May 5, 1893.

Collectors and deputies will give such notice through leading Chinese, or by notices posted in the Chinese quarter of the various localities, as will be sufficient to apprise all Chinese residing in their districts of their readiness to receive applications and the time and place where they may be made.

All applications received by deputies must be forwarded to the collector's office, from whose office all certificates of residence will be issued, and sent to the deputy for delivery.

AFFIDAVIT OF WITNESS.

The affidavit of at least one credible witness of good character to the fact of residence and lawful status within the United States must be furnished with every application. These affidavits shall be, in substance, as follows:

Affidavit of witness to application of Chinese laborer (or Chinese person other than laborer) for certificate of residence.

I, ——— ———, residing at ———, ——, do solemnly swear that I am well acquainted with ——— ———, a Chinese ——— whose application for a certificate of residence is set forth on a preceding page; that I know of my own knowledge that on the 5th day of May, 1892, said ——— ——— was within the limits of the United States, residing at ———, and I am informed and verily believe that said ——— ——— arrived in the United States on the ——— day of ———, 18—, per ———, and was lawfully within the United States on said 5th day of May, 1892; that the said applicant now resides at ———, and is by occupation a ———.

Signature of witness: ——— ———.

Subscribed and sworn to before me this ——— day of ———, 189—.

———— ————,

Deputy Collector Internal Revenue, ——— District of ———.

If the applicant is unable to furnish such witness satisfactory to the collector or his deputy, his application will be rejected, unless he shall furnish other proof of his right to remain in the United States, in which case the application with the proofs presented shall be forwarded to the Commissioner of Internal Revenue for his decision.

The witness must appear before the collector or his deputy, and be fully questioned in regard to his testimony before being sworn.

ISSUE OF CERTIFICATE OF RESIDENCE.

Certificates of residence in the following form will be furnished, bound in books of one hundred each, and numbered consecutively from 1 upward, to wit:

(Original.)

No. ——.

UNITED STATES OF AMERICA.

Certificate of residence issued to Chinese laborer (or Chinese person other than laborer) under the provisions of the act of May 5, 1892.

This is to certify that —— ——, a Chinese —— now residing at ——, has made application, No. ——, to me for a certificate of residence under the provisions of the act of Congress approved May 5, 1892, and I certify that it appears from the affidavit of witness submitted with said application that said —— —— was within the limits of the United States at the time of the passage of said act, and was then residing at ——, and that he was at that time lawfully entitled to remain in the United States, and that the following is a descriptive list of said Chinese ——:

Name.	Age.	Local residence.	Occupation.	Height.	Color of eyes.	Complexion.	Physical marks or peculiarities for identification.

Given under my hand and seal this —— day of ——, 189—, at ——, State of ——.

[COLLECTOR'S SEAL.]

——— ———,
Collector of Internal Revenue,
——— *District of* ———.

(Stub.)

Name.
Age.
Local residence.
Occupation.
Height.
Color of eyes.
Complexion.
Physical marks or peculiarities for identification.

The original, duplicate, and stub will be printed on one page so that the original and duplicate can be cut off, leaving the stub in the book.

All books of certificates must be kept in the collector's office and all certificates must be issued from there.

All certificates must be accounted for, and if any certificate is destroyed before being issued an affidavit must be attached to the book in which it was contained showing the facts in regard to its destruction.

After signing the certificate, and before issue, the collector must affix his official seal thereto.

ISSUE OF CERTIFICATES OF RESIDENCE TO CHINESE PERSONS OTHER THAN LABORERS.

The same forms will be used in issuing certificates of residence to Chinese persons other than laborers as are used in issuing certificates to laborers, by inserting between the words "Chinese" and "laborers" wherever they should occur in said forms, the words "persons other than," a blank space being provided in each form sufficient to admit of writing the four words, "person other than laborer."

ISSUE OF DUPLICATE ORIGINAL CERTIFICATES.

In all cases of loss or destruction of original certificates of residence where it can be established to the satisfaction of the collector of the district in which the certificate was issued that such loss or destruction was accidental, and without fault or negligence on the part of the applicant, a duplicate of the original may be issued under the same conditions that governed the original issue. Across the face of each of such duplicates so issued and the stub thereof the collector shall write, in red ink, the words, "Issued in lieu of original certificate No. ——— which, upon evidence submitted, appears to have been unavoidably lost" [or destroyed, as the case may be], to which shall be attached the collector's official signature. And upon the issue of every such duplicate certificate the collector shall, by circular letter, report the fact to the office of the Commissioner of Internal Revenue and to each collector of internal revenue, embracing in such report the serial number of the certificate for which the duplicate was issued and the name and personal description of the person to whom issued, as appearing in the original application.

COLLECTOR'S RECORD OF CERTIFICATES ISSUED.

Collectors of internal revenue will keep in their offices an alphabetical record of all certificates of residence issued. A suitable book for this purpose will be prepared by the Treasury Department and furnished to collectors in due time.

DEFINITIONS.

The persons referred to in the acts of Congress to which these regulations apply, and whose immigration into the United States is prohibited, are limited to Chinese laborers. No class of Chinese are prohibited from coming into the United States, or remaining here, except such as may properly and within the meaning of said statutes be known as "laborers." But persons other than laborers must present as a condition precedent to landing the certificate required by section 6 of the act approved July 5, 1884.

Collectors of internal revenue and their deputies are instructed that all classes of skilled and unskilled laborers, and persons employed in mining, as well as hucksters, peddlers, and persons engaged in taking and drying or otherwise preserving shells or fish for home consumption or exportation, and laundrymen, shall be classed as laborers. Persons who are employed in stores, but who are not owners or part owners in the business, shall be classed as laborers. A person to be exempted from the operations of this law as a merchant must be an owner or part owner of a bona-fide mercantile establishment.

J. G. CARLISLE,
Secretary.

[Circular.]

EXCLUSION OF CHINESE.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 4, 1893.

To collectors of internal revenue, collectors of customs, and all other customs officials of the United States:

The time within which Chinese laborers are required by the act of May 5, 1892, to procure certificates of residence will expire on the fifth day of the present month, and it is evident from the partial reports made to this Department by the collectors of internal revenue that in some of the States and Territories large numbers of such persons have failed or refused to make application as required by the law, but until complete reports are received the names and residences of those who have registered and procured certificates, and who are therefore exempt from arrest, can not be officially known.

Collectors of internal revenue and collectors of customs and all other customs officials of the United States are therefore instructed to refrain from making arrests under the provisions of the sixth section of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," until further orders and instructions from this Department.

J. G. CARLISLE,
Secretary.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., May 24, 1893.

SIR: By Department circular, dated the 4th instant, officers of this Department were instructed to refrain from making arrests under the provisions of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," until otherwise directed. This order remains in force so far as it applies to Chinese persons who have failed to obtain certificates of residence under the provisions of the sixth section of said act, but who otherwise would have a right to remain in the United States.

It is known, however, that great numbers of Chinese laborers have entered the United States in violation of the provisions of the act approved May 6, 1882, as amended by the act approved July 5, 1884, and of the act approved October 1, 1888. Many of these persons have obtained admission upon false representations that they were not laborers, but merchants, and others have entered clandestinely from contiguous foreign territory.

Inviting your attention to the first, second, third, fourth, and fifth sections of the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," which continue in force the provisions of previous acts prohibiting the coming into this country of Chinese laborers, and provide for the trial, imprisonment, and importation of such persons who under said laws are found to be not lawfully entitled to remain in the United States, you are directed to use all the means under your control to vigorously enforce said provisions of law and to take such measures as may be necessary to secure the arrest and prosecution of Chinese laborers who are unable to show that they have obtained lawful admission into the United States.

Respectfully yours,

J. G. CARLISLE,
Secretary.

COLLECTORS OF CUSTOMS.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 11.

PURCHASE OF SILVER BULLION.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

Pursuant to House resolution dated September 27, 1893, information as to why silver bullion was not purchased in the months of July and August.

OCTOBER 5, 1893.—Referred to the Committee on Coinage, Weights, and Measures and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 4, 1893.

SIR: I have the honor to acknowledge the receipt of the following resolution, passed by the House of Representatives on September 27, 1893:

Resolved, That the Secretary of the Treasury be requested to inform the House why silver bullion was not purchased in the months of July and August, 1893, to the full amount provided in the act of July 14, 1890.

I respectfully submit the following reply:

On August 13, 1890, the date the act of July 14, 1890, went into effect, the equiavlent of the London price for silver 1,000 fine in United States money was $1.1254. The amount of silver offered the Department on this date was 882,000 ounces, at prices ranging from $1.13 to $1.14 per ounce fine. Of this amount 310,000 ounces were accepted at $1.13.

On the 15th of August the London price was $1.142; the New York price, 1.14\frac{3}{8}$. The amount offered the Government was 704,770 fine ounces, at prices ranging from $1.14 to $1.1525. The Government purchased 417,770 ounces, at prices ranging from $1.14 to $1.1495.

On August 18 the New York price was $1.19 to 1.19\frac{3}{4}$. The amount offered the Department was 590,000 fine ounces, at from $1.16 to $1.20 per ounce. Of this amount 540,000 ounces were purchased at prices ranging from $1.16 to 1.19\frac{3}{4}$.

On the 20th of August, the price ranged in New York from 1.20\frac{1}{4}$ to 1.20\frac{3}{4}$, while the London price was $1.1850. The amount offered on this date was 1,364,000 ounces, of which there were accepted 516,000 ounces at prices ranging from $1.1945 to 1.20\frac{1}{4}$.

On the 22d the London rate was $1.1876, and the New York price $1.19. The amount offered was 1,520,000 ounces, of which 425,000 ounces were purchased at from $1.193 to $1.195.

On August 25 the London price was $1.182, and the New York price $1.1975. The amounts offered the Department aggregated 1,020,000 ounces, of which it purchased 450,000 ounces at from $1.1950 to $1.19¾.

On August 27 the London rate was $1.1767, the New York price, $1.18¾ to $1.19¼. The Department was offered 1,946,000 ounces, of which it purchased 613,000 ounces at $1.19 to $1.19¼.

The London price on the 29th of August was $1.192; the New York price, $1.19⅛ to $1.19⅜. The Department was offered amounts aggregating 1,453,000 ounces, of which it purchased 358,000 ounces, at $1.1949 to $1.19¾.

The prices quoted in New York on September 5, 1890, were over a half cent less than the London rate. The offers made the Department ranged from $1.172 to $1.19¼. Two small lots were purchased at from $1.172 to $1.17⅜.

The practice of accepting the lowest price as fixed by the bidders, and which were almost without exception in excess of the prices quoted by the daily press, continued until June 12, 1893, when the system of making counter bids, in cases where the prices asked by bidders were regarded as more than the market price, was inaugurated.

The department completed the purchase of 4,500,000 ounces for the month of June on the 21st day of that month, and announced that no further purchases would be made until July. After this announcement, it appears that dealers in silver bullion in New York commenced to sell very freely in London for future delivery.

As is well known, on June 26 the legislative councils of India enacted a bill closing their mints against the free coinage of silver. Upon this action becoming known there was great pressure to sell silver, and the market became completely disorganized, the price in London declining from 37 to 30½ pence, and in New York, from 84 to 62 cents per ounce.

On the 1st of July the price commenced to advance on speculative buying on American account, until on the 5th the price in London was equivalent to 75.94 cents, while certificates for silver deposited with the Mercantile Trust Company of New York was quoted at 75 cents per ounce. Offers aggregating 520,000 ounces, at prices ranging from 75.45 to 78 cents were made the Department on this day, but owing to the unsettled condition of the market and the belief that the price had been bid up for speculative proposes in anticipation of the resumption of purchases by the Department, it was difficult to fix a price, and all offers were declined, and no counter bids made.

On July 7 the offers of silver aggregated 1,178,000 ounces at prices ranging from 72 to 76 cents. The equivalent of the London price was 74.48 cents. The quotation for bullion certificates in New York was 72⅜ cents. An offer of 100,000 ounces at 72 cents was accepted, and the same rate tendered for the remaining 1,078,000, the offer of the Department being accepted for 488,000 ounces.

On August 23, 1893, the London rate was equivalent to 76.35 cents per ounce fine, and the New York rate as quoted ranged from 76¼ to 76½ cents. The offers this day aggregated 636,000 ounces, at from 76 to 76¾ cents per ounce, all of which were declined, and 75¼ cents tendered, which rate was accepted by bidders for 416,000 ounces.

It is difficult to fix the market price of silver, especially as the prices vary constantly from day to day, and, in fact, almost hourly, and when the sellers or dealers themselves differ so widely in the rates at which they offer silver to the Government.

In view of these facts it seems eminently proper that, as the Government of the United States is the largest purchaser of silver in the

world, the Secretary of the Treasury, after an examination of the offers and quotations of each day, should determine what in his judgment is a fair market price, especially as the act of July 14, 1890, expressly provides for the purchase of "4,500,000 ounces, or so much thereof as may be offered in each month at the market price thereof." It is evident that there are but two courses open to the Secretary of the Treasury under this statute. He must purchase 4,500,000 ounces of silver each month at whatever prices may be asked by the dealers, no matter how unreasonable or extortionate they may be, or he must employ such means as are at his command to ascertain what the actual market price is, and make, or offer to make, the purchase at that rate; and it is simply because the dealers were not willing to accept what was considered a fair market price that 4,500,000 ounces were not purchased during the months of July and August. There is no valid reason why the Government should pay for silver bullion higher prices than are paid by individuals, or why one refiner or dealer should receive a price for his silver greater than that paid to another on the same day and in the same market.

The silver bullion which the Secretary of the Treasury is directed to purchase is not graded or divided into classes like other commodities, such as wheat, cotton, pork, etc., but must be purchased and paid for at one degree of fineness, namely, 1,000 fine, or in other words, pure silver; and, therefore, there can be no reason why it should be offered or purchased at different prices at the same time. In purchasing all other commodities and supplies the Government endeavors to purchase at the market rate, and believing that there was no reason why this rule should not govern the Secretary of the Treasury in making purchases of silver, the practice of making counter offers when the prices asked were regarded as in excess of the market rate was adopted on the 12th day of June last, and has continued ever since that date. With two exceptions only the Department has been able to purchase more or less silver on its counter offers every purchasing day, thus establishing the fact that the rate fixed by the Department was a fair market rate. In order to fix a market price to be paid for silver the governing market of the world must be consulted.

As the world's supply of and demand for silver meet in London it is necessary to take the prevailing price there into consideration; and as that market obtains by far the greater part of its silver from the United States, Mexico, and South America it follows that the Treasury Department should be able to purchase silver here at a lower price than that of the London market, the cost of placing silver in that market being between three-tenths and four-tenths of a cent per ounce.

What is the market price of a given article at the time of the negotiations between the buyer and the seller is always a question of more or less difference of opinion between them, and it is a question which neither of them alone can settle. It can be adjusted only by mutual agreement, and the effort of the Government since June 12 last has been simply to ascertain the fair market price of silver bullion on each day it was offered for sale and, when ascertained, to make its purchases at that price.

Respectfully yours,

J. G. CARLISLE,
Secretary.

Hon. CHARLES F. CRISP,
Speaker of the House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 12.

INVESTIGATION OF PENSION CASES.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

At the request of the Secretary of the Interior, an additional estimate of appropriation for investigation of pension cases for the current fiscal year.

OCTOBER 9, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 6, 1893.*

SIR: I have the honor to transmit herewith, at the request of the Secretary of the Interior, an additional estimate of appropriation, $300,000, for investigation of pension cases, Pension Office, for the service of the current fiscal year.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
Washington, September 22, 1893.

SIR: I have the honor to transmit herewith a supplemental estimate of $300,000, being in addition to the $200,000 already appropriated for the current fiscal year for "investigation of pension cases, Pension Office," and ask the early and favorable action of Congress thereon.

Very respectfully,

HOKE SMITH,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, D. C., September 22, 1893.

SIR: I have the honor to transmit herewi th an urgent supplemental estimate for the service of the fiscal year ending June 30, 1894, in the investigation of pension cases in this Bureau, amounting to $300,000.

Very respectfully,

WM. LOCHREN,
Commissioner.

The SECRETARY OF THE INTERIOR.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1894, by the Bureau of Pensions, Department of the Interior.

Investigation of pension cases, Pension Office:

Per diem, when absent from home and traveling on duty outside the District of Columbia, for special examiners or other persons employed in the Bureau of Pensions, detailed for the purpose of making special investigations pertaining to said Bureau, in lieu of expenses for subsistence, not exceeding $3 per day, and for actual and necessary expenses for transportation and assistance: *Provided*, That the chief and assistant chief of the division of special examiners may be allowed per diem not exceeding $3 per day and actual and necessary expenses for transportation and assistance, when it shall be found necessary for them to be absent from home and traveling on duty outside the District of Columbia. (March 3, 1893, vol. 27, p. 705, sec. 1.) $300,000

Amount appropriated for the fiscal year for which the appropriation is required 200,000

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 13.

APPROPRIATION FOR PUBLIC LANDS SERVICE.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

At the request of the Secretary of the Interior, additional estimates of appropriations required for the public lands service for the fiscal year ending June 30, 1894.

OCTOBER 9, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 6, 1893.*

SIR: I have the honor to transmit herewith, in compliance with the requests of the Secretary of the Interior of September 23 and October 2, 1893, supplemental and additional estimates of appropriations required for the public lands service for the fiscal year ending June 30, 1894, as follows:

Salaries and commissions of registers and receivers	$50,000
Contingent expenses of land offices	50,000
Protecting public lands, timber, etc	80,000
	180,000

Respectfully yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
Washington, August 18, 1893.

SIR: I have the honor to transmit herewith supplemental estimates of appropriations required for the public lands service for the current fiscal year submitted by the Commissioner of the General Land Office.

As the appropriations already made for the objects set forth in the estimates for the fiscal year 1894 seem to be wholly inadequate for the service, and a limitation to said amounts will seriously interfere with the disposal of the public lands, the estimates are approved and the early and favorable consideration of Congress thereon is solicited.

Very respectfully,

HOKE SMITH,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 7, 1893.

SIR: I have the honor to transmit herewith (in duplicate) supplemental estimates of appropriations required for the public land service for the fiscal year ending June 30, 1894, and request that they be submitted to Congress, through the honorable Secretary of the Treasury, as soon as practicable, viz:

For salaries and commissions of registers and receivers of district land offices	$50,000
For clerk hire, rent, and other incidental expenses of the district land offices	50,000
For depredation on public timber, protecting public lands, and settlement of claims for swamp lands and swamp-land indemnity	80,000

The necessity for an increased appropriation for the above purposes is set forth in the explanatory notes embodied in the estimates submitted herewith.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, September 23, 1893.

SIR: Referring to Interior Department letter dated August 18, 1893, inclosing certain supplemental estimates for the current fiscal year, submitted by the Commissioner of the General Land Office, I have the honor to request that the one relating to the following appropriations be transmitted to Congress as early as practicable:

Salaries and commissions of registers and receivers	$50, 000
Clerk hire, rent, etc., of district land offices	50, 000
Depredations on public timber, protecting public lands, etc	80, 000

Very respectfully,

WM. H. SIMS,
Acting Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 2, 1893.

SIR: I have the honor to state that the appropriation for the current fiscal year for the salaries and commissions of local land officers and the incidental expenses of the offices were below the actual and necessary requirements of the service, and although, as provided in the sundry civil appropriation act, a consolidation of local land offices has been approved, and is now being carried into effect, to endeavor to bring the expenses within the sum appropriated, it has been found that the extraordinary expense attendant upon the opening of four new land offices in the Cherokee Outlet lands, for which no provision was made, will render a further appropriation absolutely necessary, and a supplemental estimate for $50,000 under each of the items was prepared in this office, and I understand has been forwarded through you to the honorable Secretary of the Treasury.

I am informed that the Treasury officials decline to forward this supplemental estimate to Congress, unless especially requested by you, and as the urgency is great and imperative, I have the honor to suggest that you make request to the Secretary of the Treasury that the said estimate be at once transmitted to Congress.

Very respectfully,

EDWD. BOWERS,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

[Indorsement.]

DEPARTMENT OF INTERIOR, *October 3, 1893.*

Respectfully referred to the honorable Secretary of the Treasury, with the request that the estimates within referred to be forwarded to Congress at the earliest practicable moment.

HOKE SMITH,
Secretary.

Estimates of supplemental appropriations required for the service of the fiscal year ending June 30, 1894, by the General Land Office.

General object (title of appropriation), detailed objects of expenditure, and explanations.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1894.
INTERIOR DEPARTMENT.		
Collecting the revenue from public lands:		
Salaries and commissions of registers and receivers:		
For salaries and commissions of registers and receivers of district land offices, at not exceeding $3,000 per annum each (R. S., p. 392, secs. 2237, 2238; R. S., p. 393, sec. 2240. March 3, 1893, vol. 27, p. 591, sec. 1)	$50,000	$520,000
NOTE.—The amount appropriated for salaries and commissions of registers and receivers for the fiscal year ending June 30, 1894, viz, $520,000, is wholly inadequate for the service, and a limitation of the appropriation to that amount will seriously interfere with the disposal of the public lands, and result in a great disadvantage, inconvenience, and expense to the settlers. During the fiscal year ending June 30, 1893, the compensation earned by registers and receivers amounted to about $560,000, while the entire appropriation therefor was but $550,000, leaving a deficiency of about $10,000 to be provided for the fiscal year 1893. The necessary creation at an early date of new land offices in the Territory of Oklahoma, for the disposal of lands opened to settlement under the act of March 3, 1893, will necessitate an increased appropriation for this year over that for 1893, and the amount asked for herein, viz, $50,000, with the $520,000 already appropriated, will be necessary for the service.		
Contingent expenses of land offices:		
For clerk hire, rent, and other incidental expenses of the district land offices (March 3, 1893, vol. 27, p. 591, sec. 1)	50,000.00	150,000.00
NOTE.—Owing to the insufficient appropriation for the fiscal year ending June 30, 1894, viz, $150,000, this office is now compelled to refuse many applications from the local land officers for allowances of clerk hire, office rent, binding plat books, and other necessary expenses for the running of their offices in very many cases where the public business absolutely requires such allowance. In order to be enabled to authorize clerk hire and other necessary expenses attending the running of the local offices, and to provide for the necessary expenses attending the creation at an early date of new land offices in the Territory of Oklahoma (as provided in the act of March 3, 1893), such as building of land offices, clerk hire, furniture, safes, typewriters, and the expenses pertaining to the detail of clerks to assist in opening up the business in said offices, and many other incidental expenses chargeable to this appropriation, the amount asked for herein will be necessary.		

Estimates of supplemental appropriations required for the service of the fiscal year ending June 30, 1894, by the General Land Office—Continued.

General object (title of appropriation), detailed objects of expenditure, and explanations.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1894.
INTERIOR DEPARTMENT—continued.		
Collecting the revenue from the public land office—Oontinued:		
Depredations on public timber, protecting public lands, and settlement of claims for swamp lands and swamp-land indemnity—		
To meet expenses of protecting timber on public lands and for the more efficient execution of the law and rules relating to the cutting thereof; of protecting public lands from illegal and fraudulent entry or appropriation, and of adjusting claims for swamp lands and indemnity for swamp lands. *Provided*, That agents and others employed under this appropriation shall be allowed per diem, subject to such rules and regulations as the Secretary of the Interior may prescribe, in lieu of subsistence, at a rate not exceeding $3 per day each and actual necessary expenses for transportation. March 3, 1893, Vol. 27, 591, sec. 1..	$80,000.00	$40,000.00
NOTE.—The present appropriation is entirely inadequate to accomplish the purpose contemplated in the act. The appropriations for this purpose, including deficiency appropriations, have for the past six years been as follows: 1888, $195,000; 1889, $195,000; 1890, $232,462.15; 1891, $260,000; 1892, $240,000; 1893, $120,000; while for the fiscal year ending June 30, 1894, it is only $40,000. The latter appropriation of $40,000 will admit of the constant employment of not to exceed 14 special agents to protect the Government's interests during the fiscal year 1894 over the vast domain covered by the twenty-seven (27) public-land States, Territories, and districts; or one agent to every two States and Territories. The duties of these agents are to investigate and report upon cases of the unlawful cutting and removal of the public timber (in some of the States and Territories amounting to many millions of feet each year), to investigate and report upon applications for permits to cut public timber under the act of Mar. 3, 1891 (26 Stats., 1093), and to examine the timbered areas with a view to the selection of such tracts as may seem desirable and necessary to embrace in forest reservations provided for in section 24 of the act of Mar. 3, 1991 (26 Stats., 1095); also to investigate and report upon attempted fraudulent and illegal acquisition of public lands, and to make personal examination and report as to the character of lands selected by the public-land States as swamp, or appropriated alleged swamp lands, for which the States apply for other public lands as indemnity. For the purpose contemplated in this appropriation the following estimated force of special agents is imperatively necessary for the fiscal year ending June 30, 1894, viz: On timber depredations and applications for timber permits, 10; on forest reservations, 12; on fraudulent land entries, etc., 15; on swamp lands, 3; total, 40. At the lowest possible estimate of $3,000 each per year to cover salary, per diem, transportation, and all other expenses for necessary assistants, etc., $120,000; appropriation. $40,000; difference, $80,000.		
Total	180,000.00	710,000.00

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 14.

SUNDRY CITIZENS AT FORT LOGAN, COLO.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING,

With its inclosures, a copy of a letter from the commanding officer at Fort Logan, Colo., the result of the prosecution of sundry citizens for an offense committed on that reservation July 8, 1890, and recommending the reënactment of section 5391, Revised Statutes.

OCTOBER 9, 1893.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., October 6, 1893.

SIR: I have the honor to transmit herewith a copy of a letter dated January 20, 1893, from the commanding officer at Fort Logan, Colo., reporting the result of a prosecution instituted against W. E. Curran *et als.* for an offense committed on that military reservation on July 8, 1890, the offense being an aggravated assault on three laundrymen, employed at the post, by a party of citizens who entered upon the reservation, seized the men, and treated them in a brutal manner for the ostensible purpose of extorting a confession of theft. Copies of papers accompanying the letter of the post commander are also transmitted. It appears from the papers that the offending citizens were arrested with a view to being brought to trial for a violation of section 5391 of the Revised Statutes, which is as follows:

SEC. 5391. If any offense be committed in any place which has been or may hereafter be, ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to, and receive, the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States.

But, as will be seen from the copy of the decision rendered by Mr. Justice Hallett in the district court of the United States for the district of Colorado on December 23, 1892, the motion to quash the indictment against them was sustained, for the reason that at the time of the enactment of section 5391 Colorado was not then a State in the Union, and that none of its laws were adopted or put in force by this section,

and that consequently the section will never be operative in Colorado to put in force the laws of the State in respect to crimes committed on Government reservations unless reënacted.

Concurring in the views of the Acting Judge-Advocate-General and the Major-General Commanding the Army, as shown in the accompanying copies, I have the honor to submit, with a recommendation for favorable legislation by Congress, a draft of an act reënacting section 5391, so as to make it applicable alike to all military reservations, whether in new or old States, or whether in Territories, and which will also be applicable to States hereafter admitted to the Union.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

OFFICE OF THE POST COMMANDER,
Fort Logan, Colo., January 20, 1893.

SIR: I have the honor to inclose herewith a communication received from United States Attorney John D. Fleming, district of Colorado, reporting the result of a prosecution instituted against W. E. Curran *et als.* for an offense committed on this military reservation July 8, 1890.

The offense was a peculiarly aggravated assault on three Chinese laundrymen, employed at this post, by a party of citizens under the lead of one W. E. Curran, who entered the reservation at night, seized upon the Chinamen, took them in a wagon about a mile from the post to the place of residence of said Curran, where the Chinamen were repeatedly hanged up by their necks in a most brutal and cruel manner, the rope marks being plainly visible for weeks afterwards.

The ostensible purpose and motive on the part of the assailants was to extort a confession of theft of certain articles of jewelry alleged to have been sent to the laundry, accidentally, with clothing by Mrs. Curran.

It appears to me the defenseless condition of this reservation, and apparently many others, against crimes of this nature, as appears from the decision of the court set forth, demands the early attention of Congress, and I request that proper action may be taken to that end.

Very respectfully, your obedient servant,

H. C. MERRIAM,
Colonel Seventh Infantry, Commanding Post.

The ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.
(Through Headquarters Department of the Platte.)

(Third indorsement.)

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., February 4, 1893.

Respectfully returned to the Adjutant-General for the Major-General Commanding the Army.

That a brutal, aggravated assault and battery, such as is here described can, under existing law, be committed with impunity on a military reservation, exclusive jurisdiction over which has—as in the

case of Fort Logan, Colo.—been ceded to the United States, certainly indicates a gross failure of justice which calls for prompt discontinuance.

This end may be attained on all reservations within States now in existence by reënacting section 5391, Revised Statutes. By that means the laws now in force in the various States would be adopted by the United States and made United States laws for the reservations in their respective States, just the same as if they were taken up one by one and passed in the usual way by Congress and approved by the President. It would not only supply the reservations in new States—such as Fort Logan Reservation in Colorado—with such laws as are needed of the character under consideration, but it would bring the laws on reservations in old States down to date, as it were.

By the enactment of section 5391 the State laws that were in force at the time of the enactment were made United States laws on the reservations. But since that time the States have, in many instances, changed their laws, so that now the laws of the States are in many respects different from the laws in force on the reservations in those States. The States could not change the laws on the reservations, of course, because they have no jurisdiction over them, and therefore the laws on the reservations adopted by the enactment of section 5391 have stood as they were, while the laws of the States in which they are located have been undergoing a change to keep up with the progress of the times. And it is now desirable to abandon and repeal the laws adopted by the enactment of section 5391, and adopt in lieu of them the laws of the respective States now in force. As indicated above, this may all be done by putting the substance of that section into the form of a bill and enacting it into law at this time.

The only other adequate remedy for the evils under consideration would be the enactment by Congress of a full penal code of the United States for the reservations, etc., over which the United States has jurisdiction.

One objection to the latter course would be the almost certain failure to foresee, and provide for, all offenses that the code ought to cover; and another—which by the way may or may not be well founded—would be that the laws of the reservations would in many instances be different on given subjects from those of the Territory or the State that immediately surrounded the reservations. But, on the other hand, it might be said in favor of such a code that it would secure a uniformity of laws on the reservations. We would then have the same law on a reservation in Virginia that we would have on a reservation in North Dakota.

It is recommended that the Secretary of War cause the subject to be brought to the attention of Congress, with a view to adequate legislation.

In its absence our military reservations in the new States—too extended to be effectually patrolled by the military force—will remain open to the incursions of ruffians, etc., and those in the old States will only have the advantage of the laws in force in the various States at the time of the enactment of the said section 5391.

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

HEADQUARTERS OF THE ARMY,
Washington, February 11, 1893.

Respectfully submitted to the Secretary of War, concurring in the recommendation of the Acting Judge-Advocate-General with the suggestion that in the reënactment of section 5391 the penalty imposed for the offense should be that provided for the like offense when committed within the jurisdiction of the State by the laws in force at the time the offense is committed, instead of by the laws "now in force."

J. M. SCHOFIELD,
Major-General Commanding.

WAR DEPARTMENT, *February 21, 1893.*

Respectfully returned to the Acting Judge-Advocate-General, to prepare a bill for presentation to Congress which shall meet the case.

If practicable, and if it can be accomplished by a short bill, it would be better to have a law which would be applicable alike to all military reservations, whether in new or old States, or whether in Territories, and which will also be applicable to States hereafter admitted.

As it is not likely that the present Congress will act upon a new bill, there will be time for a thorough examination and preparation.

L. A. GRANT,
Assistant Secretary of War.

[Seventh indorsement.]

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., September 29, 1893.

Respectfully returned to the Secretary of War.

Attention is invited to the accompanying report and draft of proposed legislation, prepared in accordance with the directions of the Assistant Secretary of War, contained in the foregoing indorsement.

G. NORMAN LIEBER,
Acting-Judge-Advocate-General.

UNITED STATES ATTORNEY'S OFFICE,
DISTRICT OF COLORADO,
Denver, Col., January 18, 1893.

SIR: On Friday, December 23, ultimo, in the United States district court at Denver, Judge Hallett granted a motion to quash the indictment in the case of the men charged with the assault upon the Chinamen upon the reservation at Fort Logan. As I have before had some correspondence with you in this matter, and knowing your interest in the case, I have had a copy of the opinion of Judge Hallett made, dismissing the charge, which opinion I send you herewith. It is very brief, but I think correctly states the law upon the question, as further investigation, subsequent to the indictment, convinces me.

First, it should be remembered that *there is no law in the United States statutes* directly providing punishment for minor offenses when committed by one private person against another in places under the exclusive jurisdiction of the General Government. Recourse, therefore, was had in the indictment in question to that general provision of the Revised Statutes of the United States found in section 5391, which, in effect, provides that in such cases we may proceed under the laws of the State against such offenders.

Accordingly I had Curran and others indicted under the State statute by the Federal grand jury for, (1) riot; (2) assault (aggravated by beating and wounding the Chinamen, etc.); (3) false imprisonment, etc.

No wcomes the court and says that section 5391, Revised Statutes United States, is operative to put in force only the laws of such States as existed *at the time of the enactment* of said section 5391. The effect is, you plainly see from the decision, to

make that law in some of the older States (Massachusetts, say) which is not law in Colorado, or Montana, or any of the newer States.

It is this peculiarity which leads me to address you at this length; to the end, if you think it necessary, as I certainly do, that appeal may be made to Congress, through your own or the proper department, for the reënactment of section 5391 of the Revised Statutes of the United States, whereby the *existing laws of the State of Colorado* may be made available for the punishment of offenses committed on your reservation. As the law now is, only murder, and perhaps a few of the more serious crimes, can be punished in the civil courts when the offense is committed there. I send you inclosed a copy of a recent Montana decision (United States *v.* Barnaby), in which substantially the same question as ours arose, and was similarly disposed of.

I write this note hurriedly, and would be glad that it be shown, if convenient, to Capt. Quentin, of your post, who also took an interest in the case of the unfortunate Chinamen.

The decision, I may add, of Judge Hallett finally disposed of the present offenders. It is to be hoped that in the future the state of the law may be such as to fitly punish all who imitate Curran and his crowd.

Very respectfully,

JOHN D. FLEMING,
United States Attorney for Colorado.

Col. H. C. MERRIAM,
Fort Logan, Colo.

In the district court of the United States for the district of Colorado, December 23, 1892.

HALLETT, J. (orally): The United States against William E. Curran and others is a prosecution for inciting a riot and committing an assault upon certain Chinamen on the reservation at Fort Logan.

This is alleged to be in violation of a law of the State, which is put in force by section 5391 of the Revised Statutes of the United States. This section was enacted first in 1825 and again in 1866, and it refers to the laws of States then existing. The act was so construed in Paul's Case, 6 Peters, 141 (U. S. Supreme Court).

As Colorado was not then a State in the Union, none of its laws were adopted or put in force by this act. This section will never be operative in Colorado to put in force the laws of the State in respect to crimes committed on Government reservations unless reënacted.

The motion to quash will be sustained.

UNITED STATES *v.* BARNABY.

[Circuit court, D. Montana. June 7, 1892.]

KNOWLES, *District Judge.* The defendant was charged in the indictment in this case with an assault with the intent to commit murder. He was tried and by the jury found guilty of this offense. Counsel for defendant now come into this court and move the court that the judgment herein be arrested. Among the grounds for this motion are that the indictment alleges no offense known to the laws of the United States; that for the crime alleged in the indictment and proven at the trial there is no punishment provided by the United States laws. Upon an examination of the statutes of the United States, I find no such crime named as an assault with the intent to commit murder. There is a punishment provided in the 5342d section of Revised Statutes of United States for the crime of an attempt to commit murder or manslaughter by any means not constituting an assault with a dangerous weapon. I suppose the meaning of this latter clause, not constituting an assault with a dangerous weapon, means nothing more than that the attempt to commit murder must amount to something more or different from that of an assault with a dangerous weapon, because such an assault is made a crime of itself. In the crime of an attempt to commit murder, or an assault with the intent to commit murder, there is the ingredient of malice aforethought, express or presumed. When this ingredient in a crime exists, although the assault may be accompanied with the use of a deadly weapon, I should think there would be no difficulty in maintaining a proper charge of an attempt to commit murder. The facts stated would constitute something more than an assault with a deadly weapon, and not that alone. The indictment in this case charges that the defendant made an assault with a knife

upon one Alexander Ashley with the intent him to kill willfully, feloniously and of his malice aforethought. There is no charge that the defendant struck Ashley with this knife or inflicted upon him any wounds or battery which would have had the tendency to produce death. There are no allegations as to the character of the knife used. The question is then presented as to whether the indictment shows sufficient to warrant the court in saying that it appears that the crime of an attempt to commit murder is presented. "The word 'attempt' signifies both the act and the intent with which the act is done." (2 Bish. Crim. Proc. sections 88, 89.) In speaking of an indictment for an attempt, the same author says, (section 92:) "The attempt may be a crime or may not be, and the indictment should state such facts as will enable the court to see whether the particular attempt constitutes a crime or not." An "assault" is generally defined to be an unlawful attempt coupled with a present ability to commit a violent injury upon the person of another. When a simple assault is alleged, a court can not judicially see whether or not it is of such a nature, if consummated, death would ensue. From the very nature of the definition it will be seen that a court can not see from such a charge that it involves an act which would effectuate the purpose alleged. 1 Whart. Crim. Law, section 190, says: "In indictments for attempts the laxity in assaults will not be maintained." That author gives as a reason for this that the term "assault" is one "which describes an act easily defined, and asserts a consummated offense;" while "'attempt' is a term peculiarly indefinite." "It has no prescribed legal meaning; it relates, from its nature, to an unconsummated offense." Again, he says, in section 192: "On the same reasoning, in an indictment for an attempt to commit a crime, it is essential to aver that the defendant did some act which, directed by a particular intent to be averred, would apparently result, in the ordinary and likely course of things, in a particular crime." The same rule is expressed, in effect, in section 749 *et seq.*, 2 Bish. Crim. Law. It will be seen from these authorities that there were not sufficient facts set forth in the indictment in this case to warrant the court in holding that the attempt to commit murder or manslaughter was charged. Generally the crime of assault with the intent to commit murder is defined by statute law. When so defined, if the indictment follows substantially the language of the statute in charging the offense, it will generally be sufficient, but when not so defined facts must be alleged which will make the crime judicially appear.

The question arises as to whether or not the crime of an assault does not appear sufficiently in the indictment. It is charged that the defendant made an assault upon Ashley. There is, however, no punishment provided for a simple assault committed in a place within the exclusive jurisdiction of the United States, except in specified cases, of which the one under consideration is not classed. There is a punishment provided for an assault committed by one belonging to the Navy, which is to be decreed by a court-martial; there is a punishment provided for an assault committed upon a public minister; an assault upon the high seas is punished; one committed by a person in the Army, in time of war, or upon a superior officer in the Army, or upon a letter carrier, or on officers by seamen, or upon an officer authorized to execute process, or upon a custom-house officer, when in the execution of duty, is each punished by provisions of statute. It will be seen that the special instances here named do not include an assault of one person upon another in any such place as an Indian reservation. It is a settled rule in Federal jurisprudence that there are no common-law offenses against the United States, and that no punishment can be inflicted for any common-law offenses unless the punishment therefor is specially provided for by Congress. It is claimed, however, that there are two statutes of the United States which provide for the punishment of the crime in question. The first of these is found in 23 Statutes at Large, p. 385, section 9, and is as follows:

"That immediately upon and after the date of the passage of this act all Indians committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny, within any Territory of the United States, and either within or without an Indian reservation shall be subject therefor to the laws of such Territory relating to said crimes, and shall be tried therefor in the same courts and in the same manner, and shall be subject to the same penalties, as are all other persons charged with the commission of said crimes, respectively; and the said courts are hereby given jurisdiction in all such cases. And all such Indians committing any of the above crimes against the person or property of another Indian or other person within the boundaries of any State of the United States, and within the limits of any Indian reservation, shall be subject to the same laws, tried in the same courts, and in the same manner, and subject to the same penalties, as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States."

Montana has ceased to be a Territory, and hence the first part of the above section does not apply. As I have shown, the punishment for the crime of an assault with intent to commit murder or manslaughter, nor the crime of assault, except in enu-

merated cases, is not established by a United States statute, although committed within a place within the exclusive jurisdiction of the United States. An assault with intent to kill is not the same offense as an assault with the intent to commit murder. There may not exist in the former the element of malice aforethought; there may be an unlawful and intentional killing, which does not amount to murder. (State *v.* Hill, 4 Dev. and B. ,491, Hor. and T. Cas., 199; Com. *v.* Drum, *Id.*, 190.) If an assault with the intent to kill was the same crime as an assault with the intent to commit murder, no punishment is provided for either.

The second of the statutes before alluded to is as follows:

"If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to and receive the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States." (Section 5391, Rev. Stat. U. S.)

This statute has been construed by the Supreme Court in the case of United States *v.* Paul, 6 Pet., 141, and held to apply to State statutes punishing crimes which existed at the time of the passage of this statute. This decision has at no time been reversed or doubted by that court, and was a contemporaneous judicial construction of the same, and should be adhered to. Considering the language of the statute (and I do not see how any other conclusion could be reached), Congress might be willing to adopt the laws of a State which existed at the time of the passage of a statute by it, but would hardly be willing beforehand to adopt all the criminal statutes a State might in future enact. A statute to this effect might be classed as delegating legislative authority, which is not proper. This statute was passed in 1825. But the construction contended for, namely, that it applied to any laws which might exist in any State, at any time when a place might be ceded by it to the United States, brings us to no different conclusion. In the case of United States *v.* Kagama (118 U. S., 375; 6 Sup. Ct. Rep., 1109), the Supreme Court, in speaking of Indian tribes, said:

"They were and always have been regarded as having a semiindependent position when they preserved their tribal relations, not as States, not as nations, not as possessed of the full attributes of sovereignty, but as a separate people, with the power of regulating their internal social relations, and thus far not brought under the laws of the Union or of the State within whose limits they resided."

This view was largely supported by the cases of Cherokee Nation *v.* Georgia, 5 Pet., 1; Worcester *v.* Georgia, 6 Pet., 515. The evidence in this case showed that the defendant and the witness Ashley, upon whom the offense was committed, were both members of the Flathead tribe of Indians, under the charge of an Indian agent. It is safe, therefore, to assert that Montana could pass no criminal statute affecting the members of this Indian tribe in their relations with each other, and that it has not done so. In the case of United States *v.* Kagama, *supra*, the Supreme Court said of Indians occupying such relations as these Indians: "They owe no allegiance to the State, and receive from them no protection." I do not say that when an Indian commits a crime against a white man within the State and off of a reservation he can not be punished by the laws of the State where the offense was committed, but the State can not regulate in any manner the social relations of the members of an organized Indian tribe among themselves. There was then no law of Montana touching this crime at the time the Flathead Indian reservation was ceded, if ever, to the United States. I hardly think that the agreement by which the United States retained jurisdiction over the Flathead Indian reservation can be called a ceding to the United States of the same. For these reasons I find that the defendant committed no crime for which this court can enter a judgment punishing him. As the Government of the United States has undertaken to control Indians by laws, and has left them no longer to be controlled by their tribal rules and regulations, it is to be regretted that an adequate and proper code of laws to this end has not been enacted by Congress. This attempt to adopt Territorial and State laws may be classed as indolent legislation, not well adapted to producing order upon Indian reservations, or in those places under the exclusive jurisdiction of the General Government, and allowing men guilty of crimes, demanding in all civilized governments punishment, as in this case, to escape their just deserts. The motion **in arrest of jndgment is sustained, and the defendant discharged from custody.**

WAR DEPARTMENT, JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, September 29, 1893.

SIR: Section 5391 of the Revised Statutes of the United States is as follows:

"If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to, and receive, the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States."

This is taken from an enactment of April 5, 1866. In 1832 the Supreme Court (in United States *v.* Paul, 6 Peters, 141), passing upon a similar act of March 3, 1825, said that it was to be limited to the laws of the States in force at the time of its enactment.

In 1892, the circuit court for the district of Montana in the case of United States *v.* Barnaby (51 F. R., 20) followed the decision of the Supreme Court in United States *v.* Paul, and the district court for the district of Colorado held similarly in the United States *v.* Curran and others, indicted in 1892 for riot and assault.

That is to say, as the law is held to be the only criminal law in force on a place under such jurisdiction of the United States is such criminal law of the United States as may be applicable, and if it is a place jurisdiction over which has been ceded to the United States by a State existing in 1866, the laws of the State in force at that time. So that, as in the Montana and Colorado cases referred to, the criminal laws of the State can not be enforced over the ceded territory because the States were not in existence at the time of said enactment. And in States which were in existence at that time the criminal laws adopted in such States since then can not, under the legislation as interpreted by the courts, be extended over such territory. In the Montana and Colarado cases riot and assault were thus held not punishable.

It is evident, therefore, that the law needs amendment. It is regarded as impracticable for Congress to enact a full penal code to apply to such territory, but appears to be very much better to supplement (as was done in 1825 and 1866) the laws of the United States with the existing laws of the States. What seems to be most desirable now is to bring the legislation contained in section 5391 of the Revised Statutes to date. If, however, that should be done by a separate piece of legislation, it is evident that it would from year to year fall behind the State legislation, so that in time there would arise a difficulty similar to that now existing. This can not be provided for by adopting beforehand all the criminal laws of a State which shall be in force at the time of the commission of the criminal act, because that would be a delegation by Congress of its legislative power to the States. In order to overcome this difficulty it is suggested that a provision somewhat like section 5391 should be annually enacted. That would incorporate the State legislation from year to year.

I submit herewith the draft of such legislation and recommend that steps be taken to have it placed in the next sundry civil expenses act under the head of "Judicial, United States courts," to be every year reënacted therein.

Very respectfully, your obedient servant,

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

The SECRETARY OF WAR.

If any offense be committed in any place, jurisdiction over which has been retained by the United States, or ceded to it by a State, or which has been purchased with the consent of a State for the erection of a fort, magazine, arsenal, dock yard, or other needful building, the punishment for which offense is not provided for by any law of the United States, such offense shall, upon conviction in a circuit or district court of the United States for the district in which it was committed, be liable to and receive the same punishment as the laws of the State, in which such place is situated, now in force provide for the like offense, when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any such prosecution.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 15.

INVALID PENSIONS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

Pursuant to House resolution dated October 4, information relating to the number of invalid pensions granted during the year ending September 1, 1893.

OCTOBER 10, 1893.—Referred to the Committee on Invalid Pensions and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, October 9, 1893.

SIR: I am in receipt of House of Representatives resolution of the 4th instant:

That the Secretary of the Interior is hereby requested to furnish for the use of the House of Representatives the following information:

(1) The number of invalid pensions granted during the year ending September 1, 1893, giving the number under the old laws and those under the act of June 27, 1890, separately.

(2) The number of invalid-pension claims rejected during said period, giving the number under said act of 1890 separately.

(3) Also to report the average monthly award to each of said classes of claimants for the said period.

(4) Also the number of claims suspended for said period, giving separately those suspended under the act of 1890.

(5) Said information to be reported separately by months and exclusive of widows' claims, parents' and children's claims, and claims under wars prior to 1861.

In response thereto I have the honor to transmit herewith a copy of a letter from the Commissioner of Pensions, to whom the matter was referred for report, setting forth the information desired.

Very respectfully,

HOKE SMITH,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, D. C., October 9, 1893.

SIR: I have the honor to acknowledge the receipt, by your reference dated the 5th instant, of a resolution of the House of Representatives of the United States, under date of October 4, 1893, as follows:

Resolved, That the Secretary of the Interior is hereby requested to furnish for the use of the House of Representatives the following information:

(1) The number of invalid pensions granted during the year ending September 1, 1893, giving the number under the old laws and those under the act of June 27, 1890, separately.

(2) The number of invalid pension claims rejected during said period, giving the number under said act of 1890 separately.

(3) Also to report the average monthly award to each of said classes of claimants for the said period.

(4) Also the number of claims suspended for said period, giving separately those suspended under the act of 1890.

(5) Said information to be reported separately by months, and exclusive of widows' claims, parents' and children's claims, and claims under wars prior to 1861.

Your reference requires that the report shall be made in duplicate.

In response, I have the honor to submit the following report (in duplicate) thereon:

First: The number of invalid pensions granted from September 1, 1892, to August 31, 1893:

General law	9,187
Act June 27, 1890	46,057
Total	55,244

Second: The number of invalid pension claims rejected from September 1, 1892, to August 31, 1893:

General law	8,359
Act June 27, 1890	48,343
Total	56,702

Third: The average monthly award to each of said classes of claimants from September 1, 1892, to August 31, 1893:

General law	$7.17
Act June 27, 1890	9.43

Fourth: The number of invalid claims of the war of the rebellion suspended from September 1, 1892, to August 31, 1893, and by months:

Month.	General law.	Act June 27, 1890.
1892.		
September	31	.....
October	35	.....
November	42	.....
December	34	.....
1893.		
January	52	.....
February	69	.....
March	102	.....
April	136	.....
May	293	12
June	464	1,222
July	266	3,707
August	65	5,841
Total	1,589	10,782
Grand total	.....	12,371

It is proper to add that, pursuant to the act of March 1, 1893, the pensions of 3,856 persons who are residing outside the jurisdiction of the United States have been suspended since July 1, 1893. Of the 10,782 cases suspended under the act of June 27, 1890, payment has been resumed in 6,072 cases to October 7, 1893.

Very respectfully,

WM. LOCHREN,
Commissioner.

Hon. WILLIAM H. SIMS,
First Assistant Secretary of the Interior.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 16.

SITE FOR PUBLIC BUILDING AT SAN FRANCISCO, CAL.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

Pursuant to House resolution of the 4th instant, all papers relating to the selection and purchase of a site for a building at San Francisco, Cal.

OCTOBER 11, 1893.—Referred to the Committee on Public Buildings and Grounds and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 10, 1893.

SIR: In obedience to House resolution of the 4th instant, requesting the transmission of all papers relating to the selection and purchase of a site for a building at San Francisco, Cal., I have the honor to send herewith all letters and papers bearing on the subject now on file in this Department, including the daily reports of special agent who conducted the borings of test pits on said site, except the title papers and sundry vouchers retained on the files, which will be furnished if so desired.

Respectfully yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

53D CONGRESS, } HOUSE OF REPRESENTATIVES. { EX. DOC.
1st Session. } { No. 17.

THORWALD OLSEN.

LETTER

FROM

THE SECRETARY OF WAR,

WITH INCLOSURES,

Relative to the passage of a bill for the relief of Commissary-Sergeant Olsen, U. S. Army.

OCTOBER 14, 1893.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., October 12, 1893.

SIR: I have the honor to transmit herewith a letter from the Commissary-General of Subsistence, dated the 9th instant, relative to amending the military record of Commissary Sergeant Thorwald Olsen, U. S. Army, so as to entitle him to receive $5 per month, continuous service pay, together with copies of the papers referred to in that letter.

The circumstances attending the case are fully set forth in the papers, and as it appears that Congressional action will be necessary to accomplish the purpose desired, I beg to inclose a draft of a bill for the relief of the commissary-sergeant, with a recommendation for favorable legislation.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., October 9, 1893.

SIR: I have the honor to inclose the following copies of papers, viz:

(1) Letter of Commissary-Sergeant Thorwald Olsen, U. S. Army, dated March 25, 1893.

(2) Letter of the Commissary-General of Subsistence to the Adjutant-General of the Army, dated August 18, 1893.

(3) Brief prepared in the office of the Adjutant-General.

(4) Indorsement of the Adjutant-General, September 12, 1893.

(5) Indorsement of the Judge-Advocate-General of the Army, dated September 28, 1893.

From these papers I think it will be apparent that, from the force of circumstances, a grevious injury has been done to Commissary-Sergeant Thorwald Olsen, which the Government, upon the facts becoming known, should, in duty bound, hasten to redress. As it would seem that there is no legal way for doing this short of an act of Congress, I respect-

fully inclose a draft of a bill which I request may be forwarded to the Military Committee of the House of Representatives, with your recommendation for its favorable consideration by Congress.

Respectfully, your obedient servant,

JOHN P. HAWKINS,
Commissary-General of Subsistence.

The SECRETARY OF WAR.

CAMP POPLAR RIVER, MONT., *March 25, 1893.*

MY DEAR SIR: No doubt you will be somewhat surprised to receive a letter from one whom you possibly may have forgotten, yet I hope and trust that you will pardon the liberty I have taken in addressing you. In order not to intrude too much upon your valuable time I shall try to state my case as briefly as may be. It would seem that misfortune seldom comes singly. Mine commenced with the failure of the Maverick Bank, in which I lost all my little savings; shortly after, when I was least prepared to meet the expense attending upon a transfer, I was relieved from duty in the Department of Texas, and ordered to St. Francis Barracks, Florida, where I reported on June 5, 1891. I was worn out and in poor health, the climate, and especially the sulphur water there, only made matters worse, yet, knowing my services were necessary, I persistently, in spite of sickness and almost physical exhaustion, continued to perform my duties in a hot, ill-ventilated office, often working late into the night, and to overcome the fever thereby induced, I took large doses of quinine, from which I for a short period became delirious; in this condition I unconsciously got hold of an ice-pick and wounded myself—this happened on the evening of September 5, 1891, after having worked all day and finished my quarterly requisitions.

When I recovered from my wounds I was horror-stricken to learn that I had been ordered to the Government Asylum for the Insane at Washington.

I reported there on September 30, 1891, and was discharged therefrom on December 2, 1891, being sixty-two days under close observation and placed in a position that can not be fully appreciated except by actual trial; in all this time no word, action, or behavior on my part could possibly be construed as indicating the least symptom of insanity in me whatever, and yet I was discharged from the service of the United States for such disability, but with an excellent character, on October 12, 1891. Surely I was the victim of a horrible blunder. My poor distressed family had meanwhile gone back to our little home at San Antonio, Tex., where I joined them after my discharge from the asylum. I felt deeply the unjust stigma cast upon me, and determined to recover therefrom by again entering the service. By permission from proper authority, and after repeated critical medical examinations, I was reënlisted on January 18, 1892, appointed sergeant same date, and was reappointed commissary-sergeant, U. S. Army, on February 25, 1892. Of course I have lost my $5 per month "continued-service pay."

I reported for duty at this station on March 15, 1892, and since then have performed my duties to the satisfaction of my commanding officer, and, I trust, to the Department.

But here I am, at an insignificant little post, while my family is still in Texas, for I am without the means wherewith to bring them here, and even if I had, I would not be justified in so doing, on account of the instability and almost certain abandonment of the post in the near future.

My object in writing this letter is to ask you please to show it to the general, whom I dare not address personally on this delicate and purely military matter; yet knowing the general's kindness of heart, I fondly hope that he will take pity on me in my unfortunate position and, if possible, aid me in obtaining a transfer of station to one in Texas, so as to enable me to join my family after my long absence.

I feel that any assistance that the general may possibly see fit to extend to me is not unworthily bestowed, and if devotion to duty can repay for such favor, it shall, on my part, be given in good faith and in full measure.

In conclusion, dear sir, I beg to assure you that only my great distress and that of my family could induce me to take this step, and again asking your pardon for the liberty I have taken, and invoking the general's kind consideration,

I remain, sir, very respectfully,

THORWALD OLSEN,
Commissary-Sergeant, U. S. A.

W. D., O. C. G. S., *August 18, 1893.*

SIR: I have the honor to inclose herewith a letter dated March 25, 1893, from Commissary-Sergeant Thorwald Olsen. His original appointment as commissary-sergeant was dated December 15, 1877. His record is an excellent one.

His letter tells a story which is believed to be as true as it is pathetic.

By an unfortunate train of circumstances for which he was not responsible, he was sent as an insane man to the Government Hospital for the Insane on September 30, 1891, and while in that institution was on October 12, 1891, ordered discharged the service on account of insanity. The superintendent of the hospital in reporting his recovery stated that on his admission he had been considerably depressed and only showed evidence of nervous prostration, and recommended his return to the Army. But as, while in detention, he had been discharged the service, he asked, November 10, 1891, before regaining liberty, to be reënlisted and restored as commissary-sergeant. On the true facts becoming known he was enlisted January 18, 1892, appointed sergeant the same day and commissary-sergeant February 25, 1892. But by the course pursued by his superiors he has been deprived, through no fault of his, of $5 per month continuous-service pay.

The object of this letter is to ask whether the circumstances of his true mental condition, as sworn by the certificate of the superintendent of the Government Hospital for the Insane being taken into account, the order for his discharge can not be revoked, his enlistment of January 18, 1892, canceled, and he be considered as in continuous service under his enlistment of July 16, 1890, so as to enable him to draw $5 per month continuous service pay, to which he is equitably entitled.

Respectfully, your obedient servant,

JOHN P. HAWKINS,
Commissary-General Subsistence.

The ADJUTANT-GENERAL OF THE ARMY.

BRIEF.

Commissary-Sergeant Thorwald Olsen, U. S. A., after serving twenty-four years, fourteen of which as commissary-sergeant, was by S. O. 46, Department of the East, September 18, 1891, directed to be sent to Washington, D. C., for admission to the Government Hospital for the Insane; cause of insanity given as acute mania, caused by physical debility and overexertion during very warm weather.

He was admitted September 30, 1891; discharged from the Army by reason of disability October 12, 1891, and released from the Hospital for the Insane December 2, 1891.

On November 10, 1891, he applied, while still in the hospital, for reënlistment as commissary-sergeant, on which the superintendent of the hospital remarked, that on admission the man was depressed and showed evidence of nervous prostration, but soon began to improve; was given a parole of the grounds, a privilege which he has in nowise abused; his condition then (November 10, 1891) appeared to be approaching the normal. Upon receipt of this communication the discharge and final statements were recalled.

But under date of November 23, 1891, such discharge and final statements were again returned to the superintendent of the hospital, informing him that no change in the status of the man would be made.

The superintendent of the hospital was also requested to inform the man, upon his final release, to apply to this office for permission to enlist again.

The superintendent replied, under date of November 25, 1891, that further retention of the man was unnecessary, and the patient had been instructed to apply for reënlistment.

Under date of December 24, 1891, Thorwald Olsen applied from San Antono, Tex., for information as to action taken on his application for reënlistment.

Proper answer was made, to which Olsen replied that he had never been instructed to apply to this office in person after release, and could not have done so, as he was sent with an attendant to the train, the duty of such attendant being to satisfy himself that he purchased a ticket for home, and did not remain in the District.

Dr. W. W. Godding, the superintendent, stated that the man labored under a misapprehension in supposing that he could not have gone to the Department if he desired to; the escort was only sent to make sure that the man took the right train.

January 11, 1892, the recruiting officer, Fort Sam Houston, Tex., was informed by telegram that enlistment of Thorwald Olsen for Company H, Twenty-third Infantry, was authorized, etc.

February 25, 1892, Olsen was again appointed commissary-sergeant and ordered for duty to Camp Poplar River, Mont., where he has been on duty since.

The Commissary-General of Subsistence now transmits letter of the commissary-sergeant, in which the latter details the circumstances of his sickness, brought on by physical exhaustion and overwork, and claims that he was the victim of a blunder by which he was confined for sixty-two days in an insane asylum and lost $5 per month continuous-service pay, etc.

The Commissary-General of Subsistence, believing the story to be true, asks whether (the circumstances of his true mental condition, as shown by the certificate of the superintendent of the insane asylum being taken into consideration) the order for his discharge can not be revoked, his enlistment of January 18, 1892, be canceled, and he be considered as in continuous service under his enlistment of July 16, 1890, thus restoring to him the $5 per month continuous service.

The admission of this man to the asylum would appear to have been an error, but as the man was so admitted September 30, 1891, discharged from the Army October 12, 1891, and released from the asylum December 2, 1891 (par. 921 Army Regulations), bars the antedating of his enlistment of January 18, 1892, so as to restore to him the continuous-service pay.

No record of a precedent for the action suggested by the Commissary-General of Subsistence can be found.

[First indorsement.]

ADJUTANT-GENERAL'S OFFICE, *September 12, 1893.*

Respectfully referred to the Acting Judge-Advocate-General, requesting his views for the information of the Secretary of War.

This paper to be returned to this office.

By order of the Secretary of War.

R. WILLIAMS,
Adjutant-General.

[Second indorsement.]

WAR DEPARTMENT, JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., September 28, 1893.

Respectfully submitted to the Secretary of War.

The Commissary-General of Subsistence invites attention to the case of Commissary-Sergeant Thorwald Olsen, the circumstances of which he states as follows:

"By an unfortunate train of circumstances, for which he was not responsible, he was sent as an insane man to the Government Hospital for the Insane on September 30, 1891, and while in that institution was, on October 12, 1891, ordered discharged the service on account of insanity. The superintendent of the hospital in reporting his recovery stated that on his admission he had been considerably depressed and only showed evidence of nervous prostration, and recommended his return to the Army. But as, while in detention, he had been discharged the service, he asked, November 10, 1891, before regaining liberty, to be reënlisted and restored as commissary-sergeant. On the true facts becoming known he was enlisted January 18, 1892, appointed sergeant the same day and commissary-sergeant February 25, 1892. But by the course pursued by his superiors he has been deprived, through no fault of his, of $5 per month continuous-service pay."

The Commissary-General of Subsistence asks whether the order for his discharge can not be revoked, his enlistment of January 18, 1892, canceled, and he be considered as in continuous service under his enlistment of July 16, 1890, so as to enable him to draw $5 per month continuous-service pay.

Although Commissary-Sergeant Olsen appears to have been discharged under a misapprehension of the facts, he being believed to be insane when he was not, the discharge *having been carried into execution can not now legally be revoked.* Its being based on a misapprehension of facts would not invalidate it. There is no way of legally accomplishing what is desired in this case except by an act of Congress.

It is recommended that the Commissary-General be so advised.

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

A BILL for the the relief of Thorwald Olsen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to revoke the discharge from the military service of Commissary-Sergeant Thorwald Olsen, dated October 12, 1891, and to cancel the enlistment of the said Olsen, dated January 18, 1892; and the said Olsen shall be considered now to be, and to have been, continuously in the service under his enlistment of July 16, 1890, as if said discharge of October 12, 1891, and enlistment of January 18, 1892, had never taken place; and the accounting officers of the Treasury are hereby authorized and directed to adjust and pay the accounts for pay and allowances of the said Olsen in accordance with the object and intent of this act.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 18.

DEFICIENCY IN APPROPRIATION FOR PAY OF ASSISTANT CUSTODIANS AND JANITORS.

LETTER

FROM

THE ACTING SECRETARY OF THE TREASURY,

SUBMITTING

An estimate of deficiency in the appropriation for pay of assistant custodians and janitors for the fiscal year 1894.

OCTOBER 14, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 13, 1893.*

SIR: I have the honor to request that the sum of $165,920 additional to the appropriation "Pay of assistant custodians and janitors, 1894," be provided for the care and protection of the public buildings under the control of this Department for the nine months ending June 30, 1894, and would urge that the subject be given consideration as early as possible.

The appropriation for the current fiscal year was $580,000, an amount wholly inadequate and $75,000 less than the appropriation for the payment of the same service for the last fiscal year.

The amount appropriated has been apportioned as required by the act so as to prevent a deficiency, to accomplish which, however, required a reduction in the custodians' forces, already in a crippled condition owing to the insufficiency of the appropriation for the previous year. Many of the buildings are without firemen and requests are received daily for additional help in order that the buildings may be kept clean, the temperature at a comfortable degree, and the heating apparatus operated with safety and economy.

The elevator service has been necessarily discontinued in a number of buildings and so impaired in its operation in others by the reduction of the forces as to afford but inadequate accommodation. The salaries paid the employés are not in excess of those received by persons similarly employed by business establishments. There are now 211 buildings occupied and 9 new buildings will be ready for occupancy within the next five months.

The Department has exhausted its resources and unless an additional appropriation is made the unclean and discreditable condition of some of the buildings cannot be remedied, the business interests of

the Government will be greatly embarrassed, and the officials in the buildings subjected to inconvenience and discomfort.

The estimate for the additional appropriation has been carefully prepared and states the amount actually required to meet the reasonable demands that are being made upon the Department for additional help.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

Hon. CHAS. F. CRISP,
Speaker of the House of Representatives.

53D CONGRESS, *1st Session.* } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 19.

PENSIONS TO SOLDIERS AND SAILORS WHO ARE INCAPACITATED FOR MANUAL LABOR.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

Pursuant to House resolution of the 11th instant, information relating to the "Act granting pensions to soldiers and sailors who are incapacitated for manual labor."

OCTOBER 16, 1893.—Referred to the Committee on Invalid Pensions and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, October 16, 1893.

SIR: I am in receipt of the resolution of the House of Representatives dated the 11th instant:

That the Secretary of the Department of the Interior be respectfully requested to communicate to the House of Representatives information relating to the act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," approved June 27, 1890, as follows:

First. How many applications for pensions have been made under this law?

Second. How many claims were adjudicated and admitted prior to March 16, 1893, and how many were rejected?

Third. How many claims have been adjudicated and admitted since March 16, 1893, and how many have been rejected?

Fourth. What rules and regulations of the Department of the Interior, made in the construction of this act, as provided in section 2, were in force and effect prior to the 27th day of May, 1893, and what are the rules and regulations of the Department now?

In response thereto I have the honor to transmit herewith a copy of a letter from the Commissioner of Pensions and accompanying inclosures, to whom the matter was referred for report, setting forth the information desired.

Very respectfully,

HOKE SMITH,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
Washington, October 13, 1893.

SIR: I have the honor to acknowledge the receipt of your reference dated October 12, 1893, of a resolution of the House of Representatives of the United States under date of October 11, 1893, as follows:

Resolved, That the Secretary of the Department of the Interior be respectfully requested to communicate to the House of Representatives information relating to the act entitled "An act granting pensions to soldiers and sailors who are incapacitated for the performance of manual labor, and providing for pensions to widows, minor children, and dependent parents," approved June 27, 1890, as follows:

First. How many applications for pension have been made under this law?

Second. How many claims were adjudicated and admitted prior to March 16, 1893, and how many were rejected?

Third. How many claims have been adjudicated and admitted since March 16, 1893, and how many have been rejected?

Fourth. What rules and regulations of the Department of the Interior, made in the construction of this act as provided in section 2, were in force and effect prior to the 27th day of May, 1893, and what are the rules and regulations of the Department now?

First. How many applications for pension have been made under this law? The number, up to and including October 11, 1893, was as follows:

Invalid, original	517,396
Invalid, additional	120,821
Total	638,217
Army widow (series) claims filed under act of June 27, 1890:	
Widows, original	130,828
Widows, additional	1,309
Minors, original	12,537
Minors, additional	328
Mothers, original	14,981
Mothers, additional	373
Fathers, original	7,556
Fathers, additional	97
Bothers and sisters	98
To 1	168,107
Total invalid claims filed	638,217
Total widows' (series) claims filed	168,107
Grand total	806,324

NOTE.—Under the head of additional are included those in which prior claims have been filed under former laws, whether admitted or not.

Second. How many claims were adjudicated and admitted prior to March 16, 1893, and how many were rejected? The number admitted prior to March 16, 1893, was as follows:

Original, Army, invalid		297,062
Original, Navy, invalid		11,053
Original, Army, widows, etc.		70,817
Original, Navy, widows, etc		3,725
Total original		382,657
Additional, etc., Army, invalid	74,977	
Additional, etc., Navy, invalid	1,357	
		76,334
Total issue of all classes		458,991

And the number rejected under said law prior to March 16, 1893, was as follows:

Original invalid	81,114
Original, widows, minors, and other dependents	12,533
Total	93,647

Third. How many claims have been adjudicated and admitted since March 16, 1893, and how many have been rejected? The number adjudicated and admitted since March 16, 1893, up to and including October 10, 1893, is as follows:

Original, Army, invalid		6,507
Original, Navy, invalid		352
Original, Army, widows		14,521
Original, Navy, widows		574
Total original		21,954
Additional, etc., Army, invalid	2,482	
Additional, etc., Navy, invalid	34	
		2,516
Total issues of all classes		24,470

The number rejected under the act of June 27, 1890, between March 16, 1893, and October 10, 1893, was as follows:

Original, invalid	58,612
Original, widows, minors, and other dependents	3,428
Total	62,040

Fourth. What rules and regulations of the Department of the Interior, made in the construction of this act, as provided in section 2, were in force and effect prior to the 27th day of May, 1893, and what are the rules and regulations of the Department now?

In compliance with this part of the resolution, I transmit herewith copies of all the rules, orders, and decisions touching the construction of not only the second section of the act of June 27, 1890, but likewise those affecting the entire act.

In all periods of the history of the Department, whenever sufficient facts have been brought to the attention of the Commissioner primarily to impeach the title or to show that the claimant should be reduced or dropped, it has been the practice by immemorial usage to suspend the payment pending investigation of such facts. The only modification of this practice is that which is contained in Order No. 240, issued August 26, 1893, which is made a part of this report and appended thereto.

Very respectfully,

D. I. MURPHY,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

ORDER NO. 194.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, March 20, 1893.

For the purpose of carrying out the instructions of the honorable Secretary of the Interior issued in the case of Charles B. Mullins, late of Company F, Eighty-fifth Indiana Volunteers, the following rules will be observed:

(1) In all claims under the act of June 27, 1890, where the only disability alleged or shown is that for which the applicant is pensioned under some other law, the best obtainable evidence, medical, if possible, should be required, showing whether the

increased disability reported by the examining surgeons existed at the date of filing the application under said act, and continued in that degree up to the date of the medical examination.

If this evidence has not been filed when the claim is reached in its regular order for adjudication, the claimant should be called upon to elect whether he will take pension under the act of June 27, 1890, or accept increase (if any should be allowed) under the law under which he was pensioned, and he should be fully advised that if he elects to take the increase under his original certificate no new application is necessary, but that his application under the act of June 27, 1890, will be accepted as an application for increase under the old law.

(2) In all claims under section 2 of the act of June 27, 1890, other than those referred to above, where the first medical examination, showing a ratable degree of disability, was made more than three months after the date of filing the application, the applicant should be required to show, by the same class of evidence as that above described, the existence and degree of disability from all causes not due to vicious habits at the date of filing the application and thereafter until the date of said medical examination. The same rule will apply to cases wherein increase of pension is claimed on disabilities additional to those for which the applicant is pensioned under former laws.

(3) In all cases where the disabilities shown upon medical examination are of such a nature as to lead to the presumption that they have existed in an unchanging degree since a period prior to the date of filing the application under said act, the question as to whether the evidence above referred to shall be required should be referred to the medical referee for his decision.

ANDREW DAVIDSON,
Acting Commissioner.

TO CHIEF OF DIVISION.

ORDER NO. 205.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., April 25, 1893.

In claims of officers and enlisted men who served in the Army or Navy of the United States, and who are applying for pension under the act of June 27, 1890, pension can not be granted for disabilities which are the result of vicious habits.

(1) In these claims proof must be made by the affidavits of not less than two credible witnesses that, to the best of their knowledge and belief, the disability or disabilities are not the result of vicious habits, and their means of knowledge and the basis of such belief should also be stated.

(2) The board of examining surgeons, or the examining surgeon, should insert in the certificate of examination that the applicant's disability or disabilities did not, in his or their judgment, originate from vicious habits, if the objective symptoms warrant that statement. But if said symptoms shall appear to show that the disability or disabilities did originate from vicious habits, a statement to that effect should appear in the certificate of examination.

D. I. MURPHY,
Acting Commissioner.

ORDER.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 1, 1893.

The chief of the record division is hereby directed to proceed at once to classify all claims filed under the act of June 27, 1890, since the passage of said act, so as to show separately the total number received to May 31, 1893, in each class, viz, invalids, widows, minors, mothers, and fathers; and also in each class separately the number of originals, additionals, and renewals.

From and after this date all weekly reports from the record division of the number of claims received will contain this classified information, brought up to their respective dates, in addition to the data now furnished.

WM. LOCHREN,
Commissioner.

ORDER NO. 226.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 9, 1893.

To properly comply with the order of the honorable Secretary of the Interior of May 27, 1893, revoking Order No. 164 and directing the Commissioner to "have an examination made to determine what pensions have heretofore been allowed under section 2 of the act approved June 27, 1890, in disregard of the terms said act and in conflict with the ruling of this Department in the case of Charles T. Bennett," it is deemed necessary to organize a board of revision.

The following named gentlemen are hereby detailed as members of this board, viz:

J. R. Van Mater (acting chief).
Denis Kerr.
Charles M. Bryant.
Thomas W. Dalton.
Herbert W. Olmstead.
Joseph Loughran.
Thomas G. Randall.
Henry H. Hough.
Thomas H. Dawson.
William W. Van Loan.
Dr. Thomas D. Ingram.
Dr. August B. Coolidge.
Thomas De Loach.
Thomas P. Randolph.
John J. Freeland.
Winfield F. Works.
William J. McDonald.
Charles B. Hemingway.
Paul Kelso.
John M. Williamson.
Dr. John F. Keenan.
Dr. W. W. Fierce.
Dr. James K. Boude.

The duties of the board of revision shall be to draw from the admitted files, as rapidly as may be practicable, all cases allowed under section 2 of the act of June 27, 1890, and to determine whether the allowances are in accordance with law.

The board will act under the immediate supervision and direction of the Commissioner, who will give proper instructions as needed.

The chief clerk will see to it at once that proper accommodations are provided for the board and will detail the necessary force of typewriters, file clerks, and messengers as soon as an organization is effected.

WM. LOCHREN,
Commissioner.

ORDER NO. 225.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 9, 1893.

As to adjudicating and fixing rates of pensions under the act of June 27, 1890.

(1) A claim for pension under the second section of the act of June 27, 1890, can only be allowed upon proof of mental or physical disability of a permanent character, not the result of the claimant's own vicious habits, incapacitating him from the performance of manual labor in such a degree as to render him unable to earn a support.

(2) No specific injury or disability can, as such, have a pensionable rating under that act, nor be considered otherwise than as it effects the capacity of the claimant to perform ordinary manual labor.

(3) Proof that the disability is not the result of the claimant's own vicious habits is requisite, and therefore the causes and circumstances of the origin of the disability should be shown by the evidence furnished in support of the claim for pension, so far as can be done, and by persons other than the claimant.

(4) To give the claimant a pensionable status under this act the disability must be such as to incapaciate him from the performance of manual labor in such a degree as to render him unable to earn a support; yet the act recognizes differences in the degree of such pensionable disability, giving $12 per month in case of the greatest and $6 per month in case of the lowest degree of pensionable disability rendering the claimant unable to earn a support by manual labor. It also provides for intermediate ratings, proportioned for the intermediate degrees of such pensionable disability. The proper ratings under this act will therefore be made in accordance with such rules for rating as the medical referee shall prescribe, subject to the approval of the Commissioner of Pensions.

WM. LOCHREN,
Commissioner.

Approved:

HOKE SMITH,
Secretary.

ORDER NO. 228.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 15, 1893.

It is hereby directed that all admitted cases under the act of June 27, 1890, in which a special investigation is desired in a claim therewith filed under the general law, shall first be forwarded to the board of revision for immediate action under Order 226.

WM. LOCHREN,
Commissioner.

ORDER NO. 230.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 27, 1893.

All cases under the act of June 27, 1890, in which a pension under the general law has elapsed by reason of allowance under this act, and in which dropping from the rolls is now recommended, shall be indorsed by the medical division, in addition to the formula for dropping, "Entitled to renewal under the general law at * * * if the claimant so elects."

All cases of this character which have passed through the medical division without such indorsement shall be returned to that division for the action indicated above.

WM. LOCHREN,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 12, 1893.

SIR: In order to prevent an unnecessary accumulation of June 27, 1890, cases in the medical division, to facilitate the revision of said cases, and to have the same in position that they may be readily found when wanted you are hereby instructed to forward no more cases directly to the medical division, but instead thereof to forward to the medical referee the usual reference slips heretofore used touching same, and to return said cases to the place from which they came; *i. e.*, to the admitted files or to the respective divisions, as the case may be.

In case of pending claims under act of June 27, 1890, and in order that the respective adjudicating divisions may not dispose of such cases until the opinion of the medical referee shall have been had thereon, you are instructed to place on the outside of the jacket of each case returned to the pending files of the respective divisions a slip upon which shall be stamped or written the words, "Board of revision," with your fac simile signature attached thereto; and this shall be taken to mean that the respective adjudicating divisions shall not take up and dispose of or take any action looking to the adjudicating of said claims under act of June 27, 1890, until the medical referee shall have called for same in due course of business and taken action thereon, in accordance with the opinion desired by your board, pursuant to Order 225 of the honorable Secretary of the Interior.

WM. LOCHREN,
Commissioner.

MR. VAN MATER,
Chief Board of Revision.

ORDER NO. 236.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., August 5, 1893.

In cases of pension heretofore suspended for lack of proof showing a pensionable degree of disability under the act of June 27, 1890, it is directed that the period within which the pensioners may furnish further evidence, or apply to this Bureau for examination by a medical board, be extended to October 19, 1893, and that no such pensioner be dropped for lack of such evidence before that date.

Let a copy of this order be mailed to all such pensioners as have not already acted upon the notice heretofore given.

WM. LOCHREN,
Commissioner.

ORDER NO. 240.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, August 26, 1893.

In the reëxamination of all cases allowed under section 2 of the act of June 27, 1890, the practice of the Bureau is hereby changed and modified as follows:

First. Where it appears, prima facie on the face of the papers, that the pensioner was not entitled to any rating the payment of the pension shall be at once suspended and the pensioner notified that he will be dropped from the rolls after sixty days from such notice unless he shall in the meantime file competent evidence showing his right to pension.

Second. Where on the face of the papers it appears that the pensioner is entitled to a less rate than he is now receiving he shall be notified that his pension will be reduced to such less rate unless within sixty days from such notice he shall file competent evidence of his right to a higher rating.

Third. Where it appears on the face of the papers that the pensioner had been allowed a pension under a prior law and that he is not entitled under the act of June 27, 1890, to any higher rate of pension than was allowed under such prior law he shall be notified that his pension under the act of June 27, 1890, will be dropped and his pension under such prior law restored, unless, within sixty days from such notice, he shall file competent evidence that he is entitled to a higher rate than was granted by his pension under such prior law.

Fourth. Every such notice shall inform the pensioner that upon his application to the Commissioner he will be immediately ordered for examination by a local medical board, to enable him to obtain the necessary evidence to show his right to pension.

Fifth. When any pensioner shall have complied with the requirement of such notice, and furnished evidence tending to support his claim to be continued on the rolls, the case shall at once be a "special case," and be promptly adjudicated. There will be no preliminary suspension in any case hereafter, except as provided in the first subdivision of this order.

WM. LOCHREN,
Commissioner.

Approved:

HOKE SMITH,
Secretary.

ORDER NO. 241.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., September 2, 1893.

The circular of June 12, 1893, in respect to rating cases under the act of June 27, 1890, is withdrawn.

Hereafter in affixing rates under this act the medical referee or the medical officer in the board of revision shall weigh each disability and determine the degree that each disability, or the combined disabilities, disables the claimant from earning a support by manual labor, and a rate corresponding to this degree shall be allowed.

In cases in which the pensioner has reached the age of 75 his rate shall not be disturbed if he is receiving the maximum, and if he is not a pensioner he shall receive the maximum for senility alone, if there are no special pensionable disabilities shown.

WM. LOCHREN,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., September 13, 1893.

CHIEFS OF DIVISIONS:

In the case of Sarah A. Morris, mother of John E. Morris, Eightieth Illinois Volunteer Infantry, No. 540928, Assistant Secretary Reynolds holds that where a soldier dies leaving a child over 16 years of age, and leaving a mother, such mother may file a claim under section 1 of the act of June 27, 1890, and pension may be allowed to her if she complies with the requirements of the law.

WM. LOCHREN,
Commissioner.

No. 1.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 27, 1893.

Assistant Secretary John M. Reynolds to the Commissioner of Pensions, May 27, 1893.

Charles T. Bennett, late private Company F, Thirteenth Indiana Volunteers, filed his original application for an invalid pension under the provisions of the Revised Statutes, on July 5, 1886, alleging that while in the service and in line of duty at Raleigh, N. C., about June 1, 1865, he was prostrated by a sunstroke, from which resulted a disease of the head and loss of hearing.

The claim was rejected by your Bureau February 18, 1892, upon the ground that the evidence failed to establish the existence of any disability due to the claimant's army service.

From said action the claimant appealed March 19, 1892. The evidence shows that the appellant enlisted September 14, 1864, and was discharged June 23, 1865; but the records of the War Department, in evidence, show neither treatment for any disability during said period nor the existence of any disabling cause, but that he was carried on all rolls and returns as "present for duty" from enlistment to discharge.

The affidavits furnished in support of his claim do not satisfactorily establish the origin of the alleged disability, and in the certificate made by the board of examining surgeons at Vincennes, Ind., on November 3, 1886, the following language is found: "This man seems to be in vigorous health, and we discove · no evidence of a diseased nervous system, not tremulous, but in good flesh, and looks as if he was never afflicted by any great nervous prostration. * * * We would state that he has slight deafness in both ears, but not of sufficient character to warrant us in making a rating." The rejection of the applicant's claim for invalid pension, for the reasons given, was proper and is affirmed.

This appeal brought up, also, the application made by the same claimant for a pension under the provisions of the second section of the act of June 27, 1890. Under this second section your Bureau, on January 29, 1891, granted to the claimant the maximum rating of $12 a month.

The only disability found to exist upon medical examination, as declared by your Bureau, was "slight deafness of both ears." This deafness was so slight, according to the certificate of the board of examiners, that he could hear a watch tick in each ear when it was within one-half inch of each.

To entitle the claimant to a pension under the provisions of the second section of the act of June 27, 1890, it was necessary that he should be suffering from a mental or physical disability of a permanent character not the result of his own vicious habits, which incapacitates him for the performance of manual labor in such a degree as to render him unable to earn a support; in which event he might be entitled to receive a pension not exceeding $12 per month and not less than $6 per month. As the claimant was suffering simply from "slight deafness," according to your finding, which was so slight that he could hear a watch tick one-half inch from each ear, the physical disability clearly failed to come within the requirements of the law. Such "slight deafness," of necessity, could not incapacitate for the performance of manual labor, and yet the claimant was allowed the largest sum provided for under this section of the act of June 27, 1890.

In order to ascertain with certainty the basis upon which this pension was rated the following communication was addressed to the Commissioner of Pensions:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 23, 1893.

SIR: I herewith return to you the papers in the case of Charles T. Bennett, late private Company F, Thirteenth Indiana Volunteers, certificate No. 633762.

Please furnish me at your earliest convenience the basis of rating in this case, which places "slight deafness" of both ears, under act of June 27, 1890, at the rate of $12 per month.

Very respectfully,

JNO. M. REYNOLDS,
Assistant Secretary.

The COMMISSIONER OF PENSIONS.

To which the following answer was furnished through the Commissioner of Pensions:

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., May 23, 1893.

SIR: In response to your request that I prepare an answer to the communication of this date, addressed you by the honorable Assistant Secretary, concerning the basis of rating in this case, for a slight deafness of both ears, at $12 per month under the act of June 27, 1890, I have to say that this rate was allowed in accordance with Order No. 164, which directed "that all cases showing a pensionable disability which, if of service origin would be rated at or above $12 a month, shall be rated at $12 per month." The inability of the applicant to perform manual labor was not taken into consideration.

At the time of the action taken in this claim, January 29, 1891, the schedule rate for slight deafness of both ears was $15; hence the rate of $12 was allowed. Since December 4, 1891, the schedule rate for slight deafness of both ears has been $6, and such cases have been allowed at this rate since the above date. I have recently suspended action in this class of cases.

Very respectfully,

THOS. D. INGRAM,
Medical Referee.

Hon. WILLIAM LOCHREN,
Commissioner of Pensions.

The Department will now consider whether the method of rating followed in this case is in accordance with the law.

The second section of the act of June 27, 1890, provides as follows:

"SEC. 2. That all persons who served ninety days or more in the military or naval service of the United States during the late war of the rebellion and who have been honorably discharged therefrom, and who are now or who may hereafter be suffering from a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them for the performance of manual labor in such a degree as to render them unable to earn a support, shall, upon making due proof of the fact according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the list of invalid pensioners of the United States, and be entitled to receive a pension not exceeding twelve dollars per month and not less than six dollars per month, proportioned to the degree of inability to earn a support; and such pension shall commence from the date of the filing of the application in the Pension Office after the passage of this act, upon proof that the disability then existed, and shall continue during the existence of the same."

It will be seen that this section only provides for a pension where the applicant has been incapacitated for earning a support by manual labor. Incapacity to perform manual labor, to a degree which produces inability to earn a support, is the basis of pension under this section; yet the report of the medical referee shows that the pension was allowed by your Bureau, in this case, in pursuance of Order No. 164; and the inability of the applicant to perform manual labor was not taken into consideration.

The following is a copy of Order No. 164:

In regard to fixing rates of pensions under act of June 27, 1890.

That all claimants under the act of June 27, 1890, showing a mental or physical disability, or disabilities of a permanent character not the result of their own vicious habits, and which incapacitate them for the performance of manual labor, rendering them unable to earn a support in such a degree as would be rated under former laws at or above six dollars and less than twelve dollars, shall be rated the same as like disabilities of service origin; and that all cases showing a pensionable disability which, if of service origin, would be rated at or above twelve dollars per month, shall be rated at twelve dollars per month.

GREEN B. RAUM,
Commissioner.

Approved:

CYRUS BUSSEY,
Assistant Secretary.

It will be seen that this order required that all cases showing a pensionable disability under the act of June 27, 1890, should be rated as if of service origin.

The law applicable to pensions of service origin is found in the Revised Statutes, and is as follows:

"Any officer of the Army, including regulars, volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man, however employed, in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received or disease contracted while in the service of the United States and in line of duty, etc."

The only requirement to obtain a pension under this act is disability by reason of wound or injury received or disease contracted while in the service and in line of duty. Incapacity to perform manual labor, which is the foundation to the right to pension under the act of June 27, 1890, fixes an entirely different standard of disability from that just mentioned, contained in the Revised Statutes, covering injuries of service origin. Disabilities incurred while in actual service and incapacity coming upon applicant long after service ceased are made by the law to stand upon an entirely different footing. Those incurred during service and in line of duty are pensionable without regard to capacity to earn a support, and are graded without reference to this condition. Disabilities resulting from causes other than of service origin are only pensionable when incapacity to labor joins with incapacity to earn a support, and the grades of rating are dependent upon these two conditions. When, by Order No. 164, it was declared that disabilities under the act of June 27, 1890, should be rated as of service origin the very principle which governed the rating under the act of June 27, 1890, was displaced and a rule applicable to a different act was substituted.

This case illustrates the effect of the departure by your Bureau from the terms of the act of 1890:

(1) The applicant was awarded for "slight deafness" not of service origin $12. The award was made under the act of 1890. It was given by your Bureau for "slight deafness," because under an entirely different act, applicable to disabilities of service origin alone, $15 was the lowest rating for "slight deafness."

(2) "The inability of the applicant to perform manual labor was not taken into consideration." Yet the act of 1890, under which the applicant sought and was allowed a pension, made inability of the applicant to perform manual labor, in such a degree as to prevent him from earning a support, the foundation of his claim.

It is therefore clear that the rating under the Revised Statutes for disabilities of service origin was substituted by Order No. 164 for the rating provided under the act of 1890.

The order having resulted in one error, a second error naturally followed, and the inability of the applicant to perform manual labor was not taken into consideration. In a word, the act of June 27, 1890, was changed and superseded by Order No. 164, as construed by your Bureau, and by a practice that neglected to take into consideration the ability of the applicant to perform manual labor.

It is hardly necessary to present argument or to support by authority the proposition that neither the Secretary nor the Commissioner can by order or practice supersede an act of Congress. The power of the Department, so far as orders and practice are concerned, is limited to an execution of the law; it ceases when an effort is made to supersede the law.

You will, therefore, take such steps as are necessary to reopen this case and to pass upon it in accordance with the provisions of the act of Congress approved June 27, 1890, disregarding any order or practice which is in conflict with the plain letter of the law.

The foregoing decision was approved by the honorable Secretary of the Interior, and was by him submitted to the honorable Attorney-General, who also approved it. After this concurrence the following order was made revoking the one dated October 15, 1890, numbered 164, referred to therein:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 27, 1893.

SIR: Order No. 164, signed, "Green B. Raum, Commissioner of Pensions," and approved, "Cyrus Bussey, Assistant Secretary," of date, October 15, 1890, is hereby revoked.

You will prepare, for approval of the Secretary, new rules and regulations covering the proof of the right to pensions and rates of same in accordance with the provisions of section second of the act of Congress approved June 27, 1890.

Your attention is directed to the fact that the disabilities which are pensionable under this section must be of a permanent character, incapacitating for the performance of manual labor to such a degree as to produce inability to earn a support. You will observe, also, that the rate of pension is fixed at not less than $6 nor more than $12 per month, proportioned to the degree of inability to earn a support.

You will have an examination made to determine what pensions have heretofore been allowed under section second of the act approved June 27, 1890, in disregard of the terms of said act and in conflict with the ruling of this Department in the case of Charles T. Bennett, this day transmitted to you.

Respectfully,

HOKE SMITH,
Secretary.

The COMMISSIONER OF PENSIONS.

ORDER NO. 225.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 9, 1893.

As to adjudicating and fixing rates of pensions under the act of June 27, 1890.

(1) A claim for pension under the second section of the act of June 27, 1890, can only be allowed upon proof of mental or physical disability of a permanent character, not the result of the claimant's own vicious habits, incapacitating him for the performance of manual labor in such a degree as to render him unable to earn a support.

(2) No specific injury or disability can, as such, have a pensionable rating under that act, nor be considered otherwise than as it affects the capacity of the claimant to perform ordinary manual labor.

(3) Proof that the disability is not the result of the claimant's own vicious habits is requisite; and therefore the causes and circumstances of the origin of the disability should be shown by the evidence furnished in support of the claim for pension so far as can be done, and by persons other than the claimant.

(4) To give the claimant a pensionable status under this act the disability must be such as to incapacitate him for the performance of manual labor in such a degree as to render him unable to earn a support; yet the act recognizes differences in the degree of such pensionable disability, giving $12 dollars per month in case of the greatest and $6 dollars per month in case of the lowest degree of such pensionable disability rendering the claimant unable to earn a support by manual labor. It also provides for intermediate ratings proportioned to the intermediate degrees of such pensionable disability. The proper ratings under this act will, therefore, be made in accordance with such rules for rating as the medical referee shall prescribe, subject to the approval of the Commissioner.

WM. LOCHREN,
Commissioner.

Approved:

HOKE SMITH,
Secretary.

No. 4.

Assistant Secretary John M. Reynolds to the Commissioner of Pensions, August 15, 1893.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 15, 1893.

Upon the motion of Joseph H. Hunter, attorney, I have carefully considered the decision rendered April 1, 1893, by the late Assistant Secretary Cyrus Bussey relative to the fee to be allowed in the pension claim (certificate No. 465863) of Joseph P. Smith, formerly a private in Company I, Fourteenth Pennsylvania Volunteers, and have reached the conclusions hereinafter stated.

The said Joseph P. Smith was pensioned under the act of June 27, 1890, at the rate of $6 per month on account of inability to earn a support by manual labor because of disease of lungs, stomach, and back. On the 11th of May, 1891, he filed an application for increase of pension, alleging that he was suffering from rheumatism and partial anchylosis of right elbow from an injury. Joseph H. Hunter, of this city, was appointed attorney in the claim. The only evidence called for was the affidavit of the claimant as to the time and manner of the incurrence of said injury and disease. This evidence was filed by Mr. Hunter. The certificate of medical examination completed the claim. A certificate allowing the rate of $8 per month from the 11th of May, 1891, was issued on the 1st of February, 1893. A fee of $2 was paid to Mr. Hunter. Upon the appeal of Mr. Hunter your Bureau proposed to allow a fee of $10. The Department, in the decision of April 1, 1893, disapproved the action you proposed to take, holding that the fee should not exceed $2. The attorney in the case now asks that said decision be reconsidered.

Claims under the act of June 27, 1890, differ essentially from those under prior laws as to the proof required and the ground upon which the pension is to be allowed. The only evidence required pertaining to the origin of the disability upon which a claim under the act of June 27, 1890, is based is evidence that it did not result from vicious habits, while in claims based upon disability made under prior laws the origin of the disability in the service and line of duty must be proved to establish the right to pension. The basis of pension under the act of June 27, 1890, is also different from that under prior laws. The pension under the act of June 27, 1890, is for inability to earn a support by manual labor without regard to the causes of such inability, with single restriction before referred to. (See decision of August 17, 1892, in the claim of Washington Borden, and that of May 27, 1893, in the claim of Charles T. Bennett.)

Claims for increase of pension under the act of June 27, 1890, upon whatever cause based, are, therefore, in the nature of claims for increase of pension on account of increase of the disability for which pension was originally allowed—that is, for increase of inability to earn a support by manual labor. The fee, in claims for increase of pension under said act, must, therefore, be fixed under the fourth proviso to the pension appropriation act of March 3, 1891, which directs "that hereafter no agent or attorney shall demand, receive, or be allowed any compensation under existing law exceeding two dollars in any claim for increase of pension on account of increase of the disability for which the pension has been allowed."

The fact referred to by Mr. Hunter that in a claim under the act of June 27, 1890, in which a new cause of disability is alleged and established as existing at the date of the application, the increase of pension will commence from the date of filing the application, while in the other cases it will commence from the date of the certificate of medical examination made under the claim, has no bearing upon the question involved in this case, as both classes of claims are claims for increase of pension on account of diminished capacity to earn a support by manual labor, which is the basis of the original and all subsequent allowances. They are essentially claims for increase of pension on account of increase of the disability for which pension has been allowed, and the fee must be governed by the law relating to fees in that class of claims.

The view that the fee in the case under consideration should be $2 is adhered to.

No. 5.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., August 18, 1893.

Assistant Secretary John M. Reynolds to the Commissioner of Pensions, August 18, 1893.

On June 17, 1893, you submitted to the Department the papers in the claim of Timothy L. Carley, late of Company K, One hundred and eighty-fifth New York Volunteers, Certificate No. 841972, inviting attention to an opinion by the law clerk of your bureau relative to rulings Nos. 251 and 256, as affecting the date of commencement of pensions granted under the act of June 27, 1890, which you recommend should be rescinded in part.

The second section of said act provides that pensions granted thereunder "shall commence from the date of the filing of the application in the Pension Office, after the passage of this act, upon proof that the disability *then* existed, and shall continue during the existence of the same."

Rule 251 provides that where a declaration alleges a disability, but said disability is not found on medical examination, and the case is reopened on sworn statements as to the existence of the disability, and a new examination establishes the existence of the disability, pension shall begin with the date of the second examination. But where a declaration is filed and the claim is rejected, and a second declaration is filed and a second examination made, pension shall date from filing the second declaration.

Rule 256 provides that where there is not conclusive proof that the increased degree of disability existed prior to the medical examination, the increased rate shall not commence prior to the date of the medical examination. And if the claimant elects to take under the act, the issue thereunder shall allow the old-law rate from the date of filing to the date of examination, and thereafter the increased rate.

In the claim referred to, claimant filed an application August 14, 1890, claiming pension under the second section of the act of June 27, 1890, which was rejected January 26, 1892, on the ground that no pensionable disability under the act was shown to exist.

February 17, 1892, he filed an affidavit asking that the claim be reopened, alleging that a ratable degree of disability *did* exist. He filed another affidavit September 2, 1892, to the same effect, and accompanying affidavits in support thereof, whereupon the claim was reopened, and he was again examined by a board April 13, 1892, and again November 16, 1892, when it was certified that a pensionable degree of disability existed.

Under the evidence, pension was allowed at $12 per month from the date of filing his affidavit to reopen the claim. It is claimed that the pension should have been made to commence from the date of filing the original application, August 14, 1890.

This contention would be correct had it been shown by the evidence that the disability for which the pension was granted existed at that time.

Your bureau, in the adjudication of claims under this act, has assumed that pensions may be made to commence at other dates than that of filing the application in the Bureau of Pensions.

In the case of Jos. B. King (before the Department of the Interior April 11, 1893), his pension was made to commence from the date of *incurrence* of his disability (broken legs), *subsequent* to the date of filing his original application and *prior* to the date of filing his declaration alleging such disability and the medical examination had under the claims.

In the case of Andrew Shelley (U. S. Navy, No. 28063) his pension was made to commence from the date of the medical examination first showing a pensionable degree of disability.

In the case of Oliver P. Covell (Cert. No. 639349) the pension was made to commence from the date of a revised schedule of rates under the general law for certain disabilities, not specified by law, December 4, 1891.

We have here four different methods of fixing the date of commencing pension granted under the act of June 27, 1890, exclusive of the one provided in the statute.

By this action your Bureau appears to have assumed that a claimant's title to pension under said act depends on proof of the following conditions only, viz:

1. That he served ninety days or more in the military or naval service of the United States during the late rebellion. 2. That he has been honorably discharged from such service. 3. That he is suffering from a mental or physical disability (*a*) of a permanent character (*b*) not the result of his own vicious habits (*c*) which incapacitates him for the performance of manual labor (*d*) in such a degree as to render him unable to earn a support; that when these conditions have been established, the right to pension is complete, and a certificate must then be issued; that fixing the date of the commencement of the pension is merely incidental, and must be determined by the circumstances of the case, and that the provision of the section declaring that the pension shall commence from the date of filing the application in the Bureau of Pensions is only operative when the proof shows that the disability then existed; but that if the disability did *not* exist at such date—but it should be shown that it did exist at a subsequent date—then the pension might be made to commence at a date other than that of filing such application.

If proof of the facts before mentioned is all that is required to entitle a claimant to a certificate, then no application is necessary. The pensionable condition is proved and, if the contention is tenable, it is then only required to fix the date of the commencement of the pension.

The act of January 29, 1887, granting pensions to soldiers and sailors of the Mexican war, the provisions of which are similar to those of the act of June 27, 1890, provides pensions for those who, being duly enlisted, actually served sixty days with the Army or Navy of the United States in Mexico, or on the coasts or frontier thereof, or *en route* thereto, in the war with that nation, or were actually engaged in a battle in said war and were honorably discharged: *Provided*, That such person is or becomes sixty-two years of age, or becomes subject to any disability or dependency equivalent to "some cause prescribed or recognized by the pension laws of the United States as a sufficient reason for the allowance of a pension."

Would it be contended that, under said act, a person having all the other qualifications which would entitle him to a pension, except being subject to the disability of dependency, or being sixty-two years of age, could file a claim and wait until he *became* disabled or arrived at the age of sixty-two years, and, by thereafter proving these conditions, be pensioned under said application? In other words he says: "I have no pensionable standing now, but may have hereafter, so I will file my declaration and wait until such pensionable condition shall arise." I think it is clear that under such circumstances he would be required to file another declaration after his pensionable condition arose.

If the act authorizes the commencement of a pension granted thereunder from any date other than the date of filing the application therefor in the Bureau of Pensions, from what other date shall or can it be made to commence? The statute is silent on this point. If any other date for the commencement of the pension is fixed it must be done arbitrarily. When you leave the only date mentioned in the statute to seek

another from which the pension may be made to commence you are at sea, as has been demonstrated in the claims above referred to, adjudicated under this act by your Bureau, presumably under Orders 251 and 256.

No authority can be found in the act of 1890 focommencing a pension from the date of the disability, as was done in the Jos. B. King case, and the only statute that does confer such authority in any case is the second section of the act of March 3, 1879, and such provision in that act is expressly limited to pensions granted on account of disabilities of *service origin*, or death occurring from a cause which originated *in* the service, and is not applicable to the act in question.

Neither does the act of 1890 authorize the commencement of a pension from the date of the certificate of the medical examination establishing the disability, as was done in the Andrew Shelley case under ruling 251, before referred to.

The only statute existing providing that pension may commence from the date of the medical examination is section 4698½, R. S., and such section applies to claims for increase only.

No statute can be found which would authorize the action had in the case of Oliver P. Covell or that in the case now under consideration.

All provisions relating to the subject of commencement of pensions other than those contained in the act of June 27, 1890, and the several acts of Congress providing pensions for service during the war of 1812 and Mexican and Indian wars, relate solely and are expressly limited to pensions granted on account of death occurring from a cause which originated in the service, or for disabilities in consequence of wounds or injuries received, or disease contracted in the service and line of duty, while the act of 1890 relates to pensions granted for causes not due to the service.

So the act of June 27, 1890, and those above enumerated stand alone as to the date of commencement of the pensions granted thereunder.

Section 2 of the act of 1890 provides that "such pension shall commence from the date of filing of the application in the Pension Office, after the passage of this act, upon proof that the disability then existed." No other date is suggested by said act when pensions granted thereunder may or might commence. No words can be found in the statute whereby it can be reasonably inferred that Congress intended to assume any date from which a pension granted under said section should commence other than the date of filing the application in the Bureau of Pensions, after the passage of the act, and then only "upon proof that the disability then existed." This proof is as essential as the filing of an application. Both together constitute an essential condition to the allowance of pension, for the reason that in the absence of either there is no authority of law for commencing the pension. Proof of the conditions named in the first part of the section confers a pensionable *status* upon the applicant, but his title to receive the pension is not completed until he files an application and proves that at the date of filing there existed a pensionable condition. If the evidence fails to show that a claimant was entitled to a pension when he filed his application, the claim is inadmissible for lack of proof, and the same must be rejected, for otherwise the pension must begin, either at a date subsequent to the application, which is in direct conflict with the terms of the act, or at the date of filing, which would be granting a pension for a period, in part, when no disability existed.

Before a pension can be granted an application must be filed claiming one, and alleging a pensionable condition as then existing, for it is clear that it was not intended to provide for filing claims when no pensionable disability existed, so as to cover a right subsequently accruing and in anticipation thereof.

No authority being conferred by the act for commencing a pension granted under the second section from any date other than the date of filing the application in the Bureau of Pensions, or for granting such pension except on proof that the disability existed at the date the application therefor was filed in the Bureau of Pensions, the practice in the Bureau to the contrary was erroneous.

After a careful consideration of the questions presented by your communication, the Department has arrived at the following conclusions:

1. All pensions granted to dependent parents under the first section of the act of June 27, 1890, should commence from the date of filing the application under said act.

2. All pensions granted under the second section of the act, for disabilities which incapacitate for the performance of manual labor in such a degree as to render the claimant unable to earn a support, should commence from the date of filing the application therefor in the Bureau of Pensions, after the passage of said act, upon proof that a pensionable disability under the act existed at the time such application was filed.

3. Pensions granted to widows or minor children under the third section of said act should commence from the date of the application for such pension, after the passage of said act, and after the death of the soldier; and in case of a minor after the death or remarriage of the widow.

4. No claim filed under this act shall be deemed or held to be a claim for increase

of pension, unless a pension has already been granted to such claimant under the act, which pension he is then receiving.

5. When a pensioner under said act files a claim for increase of his said pension granted under this act, the increased pension, when granted, should commence from the date of the surgeon's certificate establishing the increased disability, made under the pending claim, as provided by section 4698½ R. S.

6. No claim rejected under the second section of this act will be reopened, except on an affidavit of the claimant alleging that a pensionable disability existed *at the date of filing the application* supported by evidence tending to prove said allegation.

7. If an application for pension under the second section of the act of June 27, 1890, be filed, and the proof shows that a pensionable disability under said act does not exist, no issue will be made thereunder, and the claim should be rejected.

8. If an application be filed under the section last mentioned, and it can not be shown that a pensionable disability existed when it was filed, but one is shown to have existed subsequently, before such disability can be pensioned a new declaration must be filed.

9. No affidavit filed in a claim will be accepted as an application unless it contains all the requisite allegations to constitute a valid original application for pension under the act.

Referring again to the case submitted with your communication, it will be observed that the same was not adjudicated upon the proper basis—*inability to earn a support.*

The pension was made to commence from February 17, 1892, the date of filing an affidavit for the purpose of having his claim (under the act of June 27, 1890) reopened. This affidavit must have been considered as a new application. This was erroneous, for the reason that it did not contain the requisite allegations for a valid application. The affidavit is confined to the existence of the disabilities for which he had claimed pension. It does not allege service, honorable discharge, that he is unable to earn a support, that his disabilities are not due to vicious habits, or that the disabilities are of a permanent character. It was not a good declaration, but was erroneously treated as such.

This claimant should be afforded an opportunity to show whether his disabilities existed in a pensionable degree at the date of filing his application, for if they did so exist he is entitled to pension from that date; otherwise his claim should have been rejected, and he could not be pensioned until a proper claim is filed.

All orders or rulings heretofore made, in so far as they conflict with the foregoing, are overruled and set aside, but it is not intended that this ruling shall be retroactive in effect, but that it shall apply to all cases hereafter adjudicated.

It is suggested, in order that no injustice may result, where a claim has been rejected for failure to prove the existence of a ratable disability at the date of filing the declaration therefor, the existence of such disability at a subsequent date being shown, that the claimant be notified of his right to file a second declaration.

ORDER NO. 155.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 1, 1890.

Claimants are hereby authorized to apply to the Commissioner of Pensions to have their claims, under the provisions of the act approved June 27, 1890, placed upon the list of "completed files" for immediate consideration.

Such applications may be made by claimants or their attorneys of record and shall set forth—

(1) That the declaration has been made in due form, stating the proper service; the fact of honorable discharge and a period of service of not less than ninety days.

(2) That the proof establishes the fact that the disability alleged in the declaration is not due to the vicious habits of the claimant, and is of a permanent character to such an extent that he is unable to earn a support by manual labor.

(3) That the claimant has, with the authority of the Commissioner of Pensions, had a regular medical examination in respect to the disability described and claimed for in the declaration.

(4) That in the opinion of the claimant the claim is fully made out and complete.

If the application is made by the attorney of record for the placing of the claim on the "completed files" in addition to the other statements required, he shall certify upon honor that after a careful consideration of the case he is of the opinion that the same is complete.

Claims placed upon the "completed files" under this order will be considered in the order of the dates at which they are so placed. Claimants are requested, when their claims are complete, to make application to have them placed upon the "completed files" in accordance with the order above given.

This order *will not* apply to *rejected* cases.

GREEN B. RAUM,
Commissioner.

ORDER NO. 156.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 3, 1890.

Calls upon the War Department for service or military history in claims under the provisions of the act of Congress approved June 27, 1890, will not be made whenever a complete report therefrom is now on file in this Bureau.

In the event that a further call is necessary the number of the prior claim, in each instance, must be given.

The necessary call will be made upon the distinctive color of paper (yellow) and in the form as provided.

GREEN B. RAUM,
Commissioner.

ORDER NO. 159.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 10, 1890.

It is hereby directed that claims filed under the act of June 27, 1890, will be entered and numbered in each class in the following manner, namely:

When a prior claim is on file and still pending the new claim will take the number of the prior one, and if allowed it will take its proper number in the current certificate series of numbers; and when there is a prior claim on file which has been allowed the new one will take the certificate number of the old one, and, if allowed, the certificate number will be retained.

All others will be numbered under the current series of original numbers.

GREEN B. RAUM,
Commissioner.

ORDER NO. 160.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., July 14, 1890.

In letter of July 9, 1890, the Assistant Secretary Bussey addressed to the Commissioner of Pensions, it is decided: "That pensions granted under the act of June 27, 1890, shall commence from the filing of the application in the Pension Office after the passage of the act.

"The enforcement of this rule of practice is necessary to the ends of justice. Informal applications * * * are of no value for fixing the date at which the pension shall commence under the law; nor will any other than a formal application be received."

For the purpose of carrying out this decision it is ordered that applications informal in the matter of authentication shall be returned to the applicants or their attorneys for correction.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., August 30, 1890.

TO CHIEFS OF DIVISIONS:

In construing House Resolution 213, relative to the construction of the act of July 1, 1890, in relation to oaths in pension and other cases, it is held—

That the said resolution applies to everything on file or to be filed in this Bureau.

GREEN B. RAUM,
Commissioner.

Set aside by decision of Secretary in claim of Clark H. Worcester (No. 289800), January 23, 1891, and supplemental opinion in letter to Commissioner, dated June 6, 1891.

ORDER NO. 162.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., September 26, 1890.

For the purpose of securing the prompt adjudication of claims filed under the act of June 27, 1890, it is ordered as follows:

(1) That in all original invalid claims where the claimant, under the act of June 27, 1890, has a claim under previous laws granting pensions for service in the Army or Navy of the United States during the late war of the rebellion, whether upon the pending or rejected files, the proofs in that claim shall be considered in connection with the new claim; and where the proofs in the old claim and a medical examination, had within two years previous to the filing of the new claim, establish the facts of an honorable discharge after ninety days' service, and of the existence of a disability of a permanent character not the result of vicious habits, and which incapacitates the claimant from the performance of manual labor in such a degree as to render him unable to earn a support, the new claim shall be adjudicated upon the proofs on file.

But in all cases where the new declaration claims for disabilities which are not set forth in the original claim a medical examination shall be ordered where the interests of the claimant seem to require it, or where such examination is requested by the claimant.

(2) That in all original widows' cases when the claimant, under the act of June 27, 1890, has a claim filed under previous laws, whether upon the pending or rejected files, the proof in that claim shall be considered in connection with the new application. The points necessary to establish are the following:

First. An honorable discharge of a soldier after ninety days' service.

Second. The death of the soldier.

Third. The marriage of the claimant with the deceased soldier prior to June 27, 1890.

Fourth. The names and dates of the births of any surviving children of the soldier under 16 years of age.

Fifth. That the claimant has not remarried.

Sixth. That the claimant is without other means of support than her daily labor.

Upon consideration of the claim, if the evidence is found to be insufficient, a call will be made upon the claimant for all the evidence necessary to complete the claim. Claimants should supply such evidence as they may know to be wanting in advance of any call for the same.

(3) In claims under the act of June 27, 1890, where a claimant applies for a pension under said act for a disability of a permanent character, for which he is already pensioned at a rate less than $12 per month, under the laws granting pensions to soldiers or sailors of the United States who served during the war of the rebellion, and it shall appear from the proofs on file that he served for ninety days and was honorably discharged, a medical examination shall be ordered to determine to what degree his disabilities incapacitate the claimant from earning a support by manual labor, and the claim shall be adjudicated thereupon.

(4) In claims filed under the act of June 27, 1890, where it appears that the claimant is a pensioner at a less rate than $12 per month under previous laws granting pensions to soldiers or sailors of the United States who served during the war of the rebellion, the evidence filed in his admitted claim shall be considered in connection with his new claim, and if it shall appear from the declaration and proofs on file and a medical examination had within two years previous to the filing of the new claim, that the soldier is suffering from disabilities for which he is not pensioned, and that his disabilities are of a permanent character, which incapacitate him from earning a support by manual labor, and are not the result of his own vicious habits, the claim shall be adjudicated upon the proofs on file unless a new medical examination shall be deemed necessary or is requested by the claimant.

(5) In claims filed under the act of June 27, 1890, where the claimant has not applied for a pension under any other act, the proof required to establish a claim will be:

First. Proof of service for ninety days or more in the military or naval service of the United States during the late war of the rebellion, and an honorable discharge therefrom.

Second. Proof that the claimant is suffering from a mental or a physical disability of a permauent character, not the result of his own vicious habits, which incapacitates him from the performance of manual labor in such a degree as to render him unable to earn a support.

Medical evidence and the sworn statements of neighbors will be considered upon the question of disability, but a medical examination will be required to determine

the degree of disability of the claimant. An order for examination in such cases will be made as soon as the claim is reached in its order.

The facts of service and honorable discharge in all claims under the act of June 27, 1890, must be shown by reports from the records of the War Department which will be called for by the Bureau of Pensions.

(6) The cases of dependent parents under the act of June 27, 1890, require proof that the soldier's death was due to his service without reference to the length of such service; that he left no widow or minor children, and that such parent or parents are without other present means of support than their own manual labor or the contributions of others not legally bound for their support.

(7) Claims filed under the act of June 27, 1890, shall be taken up for adjudication in their regular order, and all necessary action had so that they shall be disposed of without delay.

GREEN B. RAUM,
Commissioner.

Approved:

JOHN W. NOBLE,
Secretary of the Interior.

ORDER NO. 163.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., October 7, 1890.

Where a claim is filed under the act of June 27, 1890, and there is an old claim pending, chiefs of adjudicating divisions will see that the new claim is strapped to the old one, and that a proper record slip is made of the claims, which slip shall be kept in a file-box for easy reference.

The two claims will be considered together, and where it is found that the old claim should be allowed for a greater rate than the rate provided for under the act of June 27, 1890, the new claim shall be submitted by the adjudicating division for rejection in connection with the old claim, which shall be submitted for allowance; these recommendations to be made upon the same face brief

Where a claim is filed under the act of June 27, 1890, and there is an old claim pending which has been sent to the field for examination, the old claim shall be immediately called into the Bureau for consideration with the new claim.

Chiefs of adjudicating divisions will in all such cases notify the chief of the special examination division to call the old claim in.

GREEN B. RAUM,
Commissioner.

ORDER NO. 164.

[In regard to fixing rates of pensions under the act of June 27, 1890.]

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., October 15, 1890.

That all claimants under the act of June 27, 1890, showing a mental or physical disability or disabilities of a permanent character, not the result of their own vicious habits, and which incapacitate them from the performance of manual labor, rendering them unable to earn a support in such a degree as would be rated under former laws at or above $6 and less than $12, shall be rated the same as like disabilities of service origin; and that all cases showing a pensionable disability which if of service origin, would be rated at or above $12 per month, shall be rated at $12 per month.

GREEN B. RAUM,
Commissioner.

Approved:

CYRUS BUSSEY,
Assistant Secretary.

[Circular.]

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS.
Washington, D. C., November 29, 1890.

In a case where an appeal has been taken from the decision of this office and the papers are still in the possession of the Bureau they shall at once be applied to any

new claim filed by the claimant under the act of June 27, 1890. After the new claim has been disposed of the appeal can be entertained if the claimant so desires.

GREEN B. RAUM,
Commissioner.

RULING NO. 238.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., January 23, 1891.

Under the provisions of the act of June 27, 1890, pensions are granted to disabled persons "who served ninety days or more in the military or naval service of the United States during the late war of the rebellion, and who have been honorably discharged therefrom."

It is plain from this language that a final honorable discharge from the service rendered during the war of the rebellion is necessary in claims under this act.

A dishonorable discharge from a service begun and rendered subsequent to the close of the war of the rebellion does not act as a bar to pension under the act of June 27, 1890, inasmuch as it does not relate to the service named in said act, and on account of which the pension itself is granted.

If, however, the service after the close of the war of the rebellion was incomplete by reason of desertion, pension under the act of June 27, 1890, can not be allowed until such service shall have been terminated by a discharge, either honorable or dishonorable

GREEN B. RAUM,
Commissioner.

RULING NO. 239.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., April 18, 1891.

STATEMENT.

"The soldier, John C. Brown, Company K, Eighty-fifth Pennsylvania Infantry (certificate 475005), was pensioned at $6 per month from January 19, 1884, for injury of back. He filed application for increase of original disability.

"He filed claim for pension under the act of June 27, 1890, July 11, 1890, alleging disability from injury to back, the same disability for which he was pensioned and for which he had claimed increase. The examination had under these applications revealed a $12 disability.

"Query: Shall a certificate issue under application for increase, or under the application of act of June 27, 1890?"

The act of June 27, 1890, provides that "persons who are now receiving pensions under existing laws, or whose claims are pending in the Pension Office, may, by application to the Commissioner of Pensions, in such form as he may prescribe, showing themselves entitled thereto, receive the benefits of this act."

To allow the claim in question under the act of June 27, 1890, instead of under the pending claim for increase would confer a benefit upon the pensioner and would, in my opinion, be a lawful and proper act. It is true that in cases of this character the Bureau may be called upon eventually to reissue the pension certificate and allow under the general laws a greater sum per month than $12, but there seems to be no lawful authority for denying such reissue. As indicated above, I do not think that in the case in question the lawful title of the pensioner to the $12 per month from date of filing the application under the act of June 27, 1890, can be successfully combated, and to act contrary to this view would, in my opinion, involve the Bureau in as much work as will result from subsequent applications for reissue to change back to the old law.

There should not, however, be an allowance of the new-law claim to the exclusion of the claim for straight increase when no benefit accrues to the applicant thereby. Such action would not be taken when the attorney is the only beneficiary.

In all cases of the character of the one referred to herein both claims (the straight increase and the one under the act of June 27, 1890) should be submitted for settlement together in order that proper discrimination may be made between them upon the lines laid down above.

ANDREW DAVIDSON,
Acting Commissioner.

RULING NO. 240.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., May 5, 1891.

Pensions to persons under 16 years of age should be granted because of their infancy. The question of the permanent disability of a minor as being insane, idiotic, or otherwise permanently helpless, under the act of June 27, 1890, should not be passed upon by this office in cases where the minor is under 16 years of age, but should be considered in connection with an application for a continuance of the pension after the minor shall have reached the age of 16 years; and in such cases there should be a medical examination so as to establish the fact of the disability.

GREEN B. RAUM,
Commissioner.

ORDER NO. 169.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., May 26, 1891.

The former custom of allowing agents, attorneys, and other persons practicing before this Bureau to charge a sum not in excess of $2 for postage in any one claim in which they may be the recognized agent has been abrogated.

Hereafter, and dating from April 22, 1891, in lieu of the former custom or practice of allowing postage in original and increase pension claims, it has been decided, with the approval of the Secretary, not to allow a sum in excess of 50 cents for postage used in the prosecution of any one claim; but a compliance with such request of the agent or attorney or other person is optional and not obligatory on the part of the claimant.

No attorney will be allowed to demand a sum for postage as a right, nor refuse to prosecute a claim where the request for postage is not answered.

CHARLES P. LINCOLN,
Acting Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., September 16, 1891.

The chiefs of the five adjudicating divisions will at once cause an examination to be made of the files for cases under the act of June 27, 1890, with a view of having immediate action in all cases which may have been passed over and not considered in the order of their filing. Where such cases are found in connection with claims filed under old laws the procedure shall be in accordance with Order No. 162.

Great care is enjoined in taking up cases under said act for making calls and ordering examinations that attention be given them in the order of their filing.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., October 17, 1891.

TO CHIEFS OF DIVISIONS:

In claims under the act of June 27, 1890, when more than one service is alleged, the final service in the war of the rebellion, if it covers the full period of ninety days, should only appear at the head of the brief.

In cases where all the service was not mentioned in the application, but appears in a statement subsequently filed, a slip should be sent by the adjudicating division to the record division containing the full service alleged, for completion of the record.

Great care should be taken to obtain from the claimant a specific statement showing whether he or she has ever applied for pension previous to the application under the act of June 27, 1890, and, if so, full data should be given in order that such claim may be identified.

ANDREW DAVIDSON,
Acting Commissioner.

(See order honorable Commissioner December 5, 1891, modifying this order.)

ORDER NO. 171.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., November 16, 1891.

In the adjudication of claims under the act of June 27, 1890, the rank as stated by the applicant in his declaration will be accepted as correct, unless there is a discrepancy between the declaration and the report from the War Department.

In the case of an officer who has filed a declaration his rank can be taken from the Volunteer Army Register, unless the report from the War Department conflicts with the declaration.

Since June last the War Department furnishes the rank of the applicant at the date of muster out.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., November 19, 1891.

TO CHIEFS OF DIVISIONS:

The position taken by the Department in the claim of Hannah Fitzgerald, guardian of the minors of Patrick Fitzgerald, under the act of June 27, 1890 (decided April 8, 1891), wherein it was held that minors under said act should show dependence in a pecuniary point of view, is erroneous. It is now held, that proof of such dependence is *not* necessary under the law in the case of a minor child under sixteen years of age.

Let your action in such cases henceforth be in accordance therewith, and paragraph 10 (Circular Call No 16), without force and effect.

GREEN B. RAUM,
Commissioner.

ORDER.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 2, 1891.

In considering the Navy Service pension claims under sections 4756 and 4757 of the Revised Statutes of the United States, the Chief of the Old War and Navy Division will require a slip to be attached to the face of the brief containing the words "Navy Service Pension," and when the cases are properly prepared for the Board of Review they will be sent directly to the desk of the Chief of the Board.

The Chief of the Board of Review will cause these cases to be examined immediately, and if found to be properly allowed will have the rates of pension entered upon the brief, and transmit the claims to the Certificate Division for the issuance of certificates without delay.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 5, 1891.

TO CHIEFS OF DIVISIONS:

Since the Order of October 17, 1891, was issued by Acting Commissioner Davidson, a class of cases has been brought to my attention which seems to be exceptional, and to require a slight modification of the first clause of said order.

Cases where the soldier was pensioned for disability as of one service, and applies under the act of June 27, 1890, on account of a subsequent service, whether either service was in the Army or Navy, or both military or both naval, should have both services entered on the brief.

Cases where during the term of enlistment there was one or more transfers from one regiment to another, there having been but one discharge, should have each regiment entered on the brief.

Cases where the soldier was pensioned as of one service and the widow applies under the act of June 27, 1890, as of a subsequent service, should have both services entered on the brief.

Cases where the last service did not cover ninety days should have the next preceding service entered on the brief also, if sufficient to make ninety days.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., February 16, 1892.

CHIEFS ADJUDICATING DIVISIONS:

I have received a number of complaints to the effect that claims filed under the act of June 27, 1890, during the year 1891 have been allowed, while many claims filed in July, August, and September of 1890 are left undisposed of.

For the purpose of seeing that claims are acted upon in the order of their filing, in respect to making calls upon the War Department, ordering medical examinations, and calls upon the claimants for additional evidence, you will cause an immediate examination to be made of your files to see that no cases have been missed in going over your files, and if any such have been missed, they shall be taken up and put in the state of forwardness to which their prior filing and completion entitle them. You will report the number of cases found out of place according to the classes.

GREEN B. RAUM,
Commissioner.

ORDER NO. 178.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D C., March 14, 1892.

Claims under act of June 27, 1890, will be adjudicated in the division that has charge of the claim under the general law; *Provided*, That every case in which there is filed or may arise any claim for pension or bounty-land on account of service in the regular army, the navy or marine corps, or in any old war or miscellaneous service belonging to the old war and navy division, shall be transferred to that division for adjudication. Claims belonging to the old war and navy division under this rule, will be transferred at once to that division and a slip left in their present place in files showing transfer of papers, to enable the evidence that may come in to follow the case.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., April 26, 1892.

TO CHIEFS OF DIVISIONS:

Hereafter in noting disabilities shown in evidence, or in medical examinations filed prior to the date of the filing of the declaration under the act of June 27, 1890, but not alleged in the latter, it is directed that an additional sheet be attached to the brief just preceding the examining surgeon's certificates, bearing the following printed heading:

"The following named causes of disability are found in the evidence, or in the certificates of medical examinations, filed prior to ———, 18—, the date of filing of the declaration under the act of June 27, 1890."

Further, upon this sheet should be noted the apparent permanent disabilities not due to vicious habits, to be considered in fixing the rates found in said evidence and certificates of examination. This sheet will be removed with the certificates when the papers are inspected.

This order to take the place of the order of February 16, 1892, issued by the acting chief of the Board of Review, in regard to entering disabilities on the face brief.

GREEN B. RAUM,
Commissioner.

ORDER.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 2, 1892.

It has been found that a number of claimants have filed two or more applications for pension under the act of June 27, 1890.

In all such cases the first application filed shall receive the consideration of the office with a view of having it completed, and the other application shall be rejected and a proper notice of rejection, and the cause therefor, given.

In all cases where a second original application under said law has been filed, after the first application has been allowed, the second application shall be treated as a claim for an increase of pension, and not as an original application.

GREEN B. RAUM,
Commissioner.

RULING NO. 248.

[In reclaim of (Cert. No. 3,082) widow of Robert Robertson, U. S. Marine Corps.]

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., June 8, 1892.

Where a widow of a soldier is drawing a pension for a minor child, and before the child arrives at the age of 16 years he receives an injury which results in the child becoming permanently helpless, as contemplated by the act of June 27, 1890, the application of the widow to have the pension continued may be filed before the child arrives at 16 years of age, but the pension will be continued from the date the child is 16 years old.

GREEN B. RAUM.
Commissioner.

ORDER NO. 183.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., August 11, 1892.

It is hereby ordered that the applications of dependent parents filed since June 27, 1890, in respect to the service of noncommissioned officers and enlisted men shall be considered as having been filed under said act.

GREEN B. RAUM,
Commissioner.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., September 29, 1892.

The CHIEFS OF ADJUDICATING DIVISIONS:

Please report to me this morning the dates to which orders for medical examinations have been ordered in your respective divisions in original cases, in increase cases under the old laws, and in increase cases under the act of June 27, 1890.

I have received a number of letters in the past few days asking for orders for medical examinations, which indicate that we are very far behind with some of this work.

GREEN B. RAUM,
Commissioner.

[Circular.]

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., October 22, 1892.

The recent count is accepted to show number of pending cases now in pending files, and as additional disability cases in admitted files are not counted, nor pending old law claims when claims under act of June 27, 1890, have been admitted.

Chiefs of adjudicating divisions will please hereafter note as "reopened" all cases called from admitted files on evidence furnished, if the case is retained in the files of the division as a pending claim.

A. W. FISHER,
Chief Clerk.

RULING NO. 250.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 5, 1892.

[In re No. 487748; George W. Stillwill, father of James H. Stillwill, Company B, Sixty-seventh New York Volunteers.]

Referring to the clause, "it shall be necessary only to show by competent and sufficient evidence that such parent or parents are without other means of support than their own manual labor," contained in the first section of the act of June 27, 1890, I hold that hereafter, in construing the term "manual labor," it is proper to include all the usual modes of earning a support, by manual labor or mental effort, and will include a clerical employment.

GREEN B. RAUM,
Commissioner.

[Circular:]

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 12, 1892.

When the claimant is receiving $12 or more per month, and files claim under act of June 27, 1890, whether claim for increase under old law is pending or not, the new law claim will be rejected by the adjudicating division without preparing a brief, and proper notice shall be sent to the claimant, and the action taken noted on jacket.

GREEN B. RAUM,
Commissioner.

RULING NO. 251.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 19, 1892.

In the case of Jacob Smith, certificate No. 512129, Company F, Seventeenth Ohio Volunteers: As this claimant alleged a disability from rheumatism in his declaration under the act of June 27, 1890, but was not examined under said act, but was allowed a pension under the same upon a medical examination made in his old law claim, he shall be allowed a new examination for said disability upon a declaration for an increase of his new law pension; or, if that has not been made, upon a motion under oath to reopen said case, and if upon the new examination a disability is found the claim may be reopened and a pension allowed for said disability, if the claimant shows by competent evidence its existence at the date of the filing of his original declaration under the act of June 27, 1890.

Where a declaration has been filed alleging a certain disability, but such disability is not found upon a medical examination, and the case is afterwards reopened upon sworn statements as to the existence of the disability, and a new medical examination is had, which establishes the existence of the disability at the date of the examination, and upon a consideration of the case the medical division finds the disability in a pensionable degree, the pension, if allowed, shall begin with the date of the second examination.

In cases where an application has been filed under the act of June 27, 1890, and has been rejected, and a second declaration has been filed under said act by the claimant, and a second medical examination has been made, the case shall be considered under the second declaration and examination, and if the claimant is found to have a pensionable disability the pension shall date from the filing of the second declaration.

Very respectfully,

GREEN B. RAUM,
Commissioner.

RULING NO. 253.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C., December 30, 1892.

In the case of James Riley, private Company A, Third Regiment, Rhode Island Volunteer Cavalry, No. 1078924, act of June 27, 1890, the Commissioner has ruled that as this claimant was sentenced to five years' confinement at Fort Jefferson, Fla., as the result of a trial by court-martial, and he was placed in confinement at said fort June 3, 1865, and was discharged March 5, 1866, under Special Orders No. 25, par. 12, A. G. O., January 19, 1866, with the facts above stated noted upon his discharge, such discharge was dishonorable, and the claimant has no pensionable status under the act of June 27, 1890, for the reason that he was not honorably discharged from the service.

And the Commissioner has held in the case of Henry Geiger, No. 956000, Company F, Fifth Iowa Cavalry, act of June 27, 1890, that as he was discharged in disgrace from the service by the major-general commanding the Department, for disgraceful and mutinous conduct, this discharge was dishonorable, and said claimant has no pensionable status under the act of June 27, 1890.

The Commissioner also holds that in cases where a soldier was mustered out, because of his trial, conviction, and punishment by the civil authorities, such discharge is dishonorable, and claimants in that category have no pensionable status under the act of June 27, 1890.

GREEN B. RAUM,
Commissioner.

RULING NO. 256.

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,
Washington, D. C.

For the guidance of the Bureau the Secretary of the Interior, under date of March 6, 1893, in the claim of Charles B. Mullins, late of Company F, Eighty-fifth Indiana Volunteers, prescribed the following rules for observation in the adjudication of claims under the second section of the act of June 27, 1890, of similar character:

"(1) In the absence of conclusive evidence showing that the increased degree of disability reported by the examining surgeons existed prior thereto, the increased rate shall not commence prior to the date of the medical examination showing title to the same.

"(2) If the required evidence is not in the case when the claim is adjudicated, and the claimant elects to take pension under the act of June 27, 1890, the issue under said act shall allow the old law rate from the date of filing the application, to the date of such medical examination, and thereafter the increased rate authorized by the report of the medical examination, deducting payment already made.

"(3) Since this would not result in any benefit to the applicant other than that which would accrue to him if the application under the new law had been an application for increase under the old law, no issue under the new law should be made, unless the claimant requests it, but his application under the new will be accepted as an application for increase under the old law, and the attorney's fee will be allowed accordingly.

"In all claims under section 2 of the act of June 27, 1890, where, from the nature of the disability, or from the length of time elapsing between the date of filing the application and the date of the medical examination, the degree of disability during said period can not be determined by the medical division, the applicant should be required to furnish evidence showing the same, and it shall be within the province of said division to fix the rate of pension in accordance with the degree of disabilty thus proved.

"It is directed that the foregoing rules be followed by your Bureau in adjudicating claims under the act of June 27, 1890."

GREEN B. RAUM,
Commissioner.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 20.

PAYMENT TO CONTRACTORS FOR CONSTRUCTION OF VESSELS FOR THE NAVY.

LETTER

FROM

THE SECRETARY OF THE NAVY,

TRANSMITTING,

Pursuant to House resolution of the 11th instant, information relating to payments made to contractors for construction of vessels for the Navy on account of speed, etc.

OCTOBER 19, 1893.—Referred to the Committee on Naval Affairs and ordered to be printed.

NAVY DEPARTMENT,
Washington, October 18, 1893.

SIR: Referring to the resolution of the House of Representatives, dated the 11th instant, calling upon this Department for information relating to payments made to contractors for the construction of vessels for the Navy on account of speed developed by such vessels upon trial in excess of the contract requirements, I have the honor to inclose herewith a joint report, in relation to the matter, of the chiefs of the Bureaus of Construction and Repair and Steam Engineering, which, it is believed, contains full information concerning all the matters comprehended in the resolution.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

NAVY DEPARTMENT,
Washington, D. C., October 16, 1893.

SIR: (1) In reply to the Department's indorsement of the 11th instant on the resolution of the House of Representatives calling for information as to the amount paid contractors as premiums for increased speed, we respectfully submit the following:

(2) The accompanying Table I gives the amount of premium paid or due on account of increased speed for naval vessels which have been tried under speed requirements.

The total amount is $690,000.
Of this amount

The Wm. Camp & Sons Ship and Engine Builing Company received	$300,000
Union Iron Works received	100,000
The Columbian Iron Works and Dry Dock Company are entitled to	150,000
Bath Iron Works are entitled to	95,000
The S. L. Moore & Sons Company are entitled to	45,000

(3) Table II gives a list of the vessels which have been tried under requirements for horse power.

(4) The total amount of money paid contractors on these trials, less that deducted for penalties on account of failure to develop the required power, was $120,094, distributed as follows:

	Premiums.	Penalties.
The Wm. Cramp & Sons Ship and Engine Building Co	$183,124	.....
Union Iron Works	.....	$66,607
N. F. Palmer, jr., & Co	4,062	.....
Columbian Iron Works and Dry Dock Co	.....	485
Total	187,186	67,092

Excess of premiums over penalties, $120,094.

(5) The pressure carried on the boilers of the *Bancroft* was 7 pounds greater than the pressure which they were designed to carry in continuous service; 10 pounds greater on the *Detroit;* 15 on the *New York;* 3 on the *Machias*, and 1 on the *Castine.* The increase on the two latter is insignificant, and may be neglected. The excess in the case of the *Bancroft* is less than 5 per cent, which we believe to be within the limits of precision of the steam gauges.

(6) In the case of the *New York*, although the pressure on the boilers was 15 pounds more than they will carry in service, this had no effect on the final result, because the steam was throttled at the engine. The same result might have been obtained by carrying the steam at 160 pounds in the boilers and opening the throttle wide at the engine.

(7) In the case of the *Detroit*, where the pressure was 10 pounds in excess, it was necessary to carry the higher pressure in the boiler in order that the engines might work off all the steam the boilers would furnish. By making modifications in the screws, altering the pitch, surface, and diameter, the engines would without doubt work off all the steam the boilers could furnish at 160 pounds, and the ship would probably make more speed than she did on this trial.

(8) In all these trials it has been the custom of the Department to allow the contractors a great deal of latitude in running the engines, as upon them devolves the responsibility for a failure of any kind or for an unsuccessful trial, and their methods have not always been those the Department would follow to attain the same result.

(9) The first trial of the *Baltimore* was unsuccessful, she falling short about 22 horse power. The contractors thought they could do better on a second trial, which was allowed them. After making a number of alterations in the machinery, the second trial was made two months after the first one, when the horse power developed was upwards of a thousand more than that required.

(10) The boilers of these ships have been designed with a large factor of safety, and have been tested to a pressure of 250 pounds per square inch. Every piece of metal in them had been subjected to the most rigid inspection, and the work has been carefully supervised as it

progressed, and so far as their strength is concerned there need be no misgivings.

(11) In powering our ships it has been the practice of the Department to give them ample boiler power, for it is in this respect that foreign war vessels are most deficient, so much so that Great Britain has deemed it unwise to subject the prototype of the *New York* and a number of other vessels to a test under full power with forced draft. That our practice has been a wise one may be inferred from the fact that we have yet to record a failure of one of our boilers on trial.

(12) It is our belief that such a practice has not resulted in giving contractors large premiums for increased speed; it has rather had the effect of getting lower bids than would have been possible had the power been barely sufficient for the contract speed; for contractors, in making their estimates, must, if they are anxious to get the contract, take into consideration the probability or the certainty of a premium for increased speed and adjust their bids accordingly. This point is amply illustrated in the case of the *Detroit* and two sister ships. When the first bids for their construction were opened it was found that all of them were greater than the amount appropriated by Congress. This was because the speed required was 18 knots, the contractors believing that even with a slightly greater speed there was no money in them. The Department accordingly reduced the requirement to 17 knots, keeping the same specifications for construction, which was equivalent to increasing the appropriation $100,000, and the bids received showed that at least one of the bidders had figured on a speed of more than 18 knots an hour and consequent premium.

(13) Finally, we do not believe that any increase of speed has resulted from the increased boiler pressure carried on the vessels in question. When the designs were made it was contemplated that the pressure at the engine would be 160 pounds on trial. In the *Machias* it was 160, in the *Castine* 159, in the *Bancroft* 163, in the *Detroit* 163, and in the *New York* 169. In the latter case the engine throttle valves were partially closed; if they had been run wide open the pressure in the boilers would probably have been less than 160 pounds, but there would have been no difference in the speed maintained. In the case of the *Bancroft* and *Detroit* premiums were paid on a basis of 14.25 and 18.50 knots, respectively, and as they made 14.37 and 18.71 knots, the contractors gained nothing by carrying three pounds additional pressure.

Very respectfully,

PHILIP HICHBORN,
Chief Constructor, U. S. Navy,
Chief of the Bureau of Construction and Repair.
GEO. W. MELVILLE,
Engineer in Chief, U. S. Navy,
Chief of the Bureau of Steam Engineering.

The SECRETARY OF THE NAVY,
Navy Department, Washington, D. C.

TABLE I.—*Naval vessels tried under a requirement for speed.*

Name of ship.	Date of—			Speed in knots.	
	Trial.	Law authorizing construction.	Law fixing premium.	Trial.	In excess of that required.
Philadelphia	June 25, 1890	Mar. 3, 1887	Mar. 3, 1887	19.68	0.68
San Francisco	Aug. 27, 1890	....do	....do	19.52	0.52
Bancroft	Jan. 26, 1893	Sept. 7, 1888	Sept. 7, 1888	14.37	2.37
Detroit	Apr. 17, 1893	....do	....do	18.71	*1.71
New York	May 22, 1893	....do	....do	21.00	1.00
Machias	June 10, 1893	Mar. 2, 1889	Mar. 2, 1889	15.46	2.46
Castine	Sept. 15 1893	....do	....do	15.62	2.62
Vesuvius	May 10, 1890	Aug. 3, 1886	.....	21.646	1.646

Name of ship.	Premium.		Steam pressure.		Duration of trial.
	Earned.	To whom paid.	In boilers.	For which designed.	
			Pounds.	*Pounds.*	
Philadelphia	$100,000	William Cramp & Sons.	160	160	Four hours.
San Francisco	100,000	Union Iron Works	135	135	Do.
Bancroft	†45,000	S. L. Moore & Sons	167	160	Do.
Detroit	‡150,000	Columbian Iron Works.	170	160	Do.
New York	200,000	William Cramp & Sons.	175	160	Do.
Machias	†45,000	Bath Iron Iron Works..	163	160	Do.
Castine	†50,000	....do	161	160	Do.
Vesuvius	None	.....	160	No record.	Two runs over a 2.05 knot course.

*The original advertisement for the construction of the *Detroit* called for a speed of 18 knots on trial. The bids received were greater than the appropriation, and the vessel was again advertised the speed requirement being reduced to 17 knots. This had the effect of increasing the amount of the appropriation by $100,000; so that the premium paid is virtually $50,000.

†This premium has not yet been paid and is subject to the approval of Congress.

‡This premium has not yet been paid.

TABLE II.—*Naval vessels tried under a requirement for horse power.*

Name of ship.	Date of—			Indicated horse power.		
	Trial.	Law authorizing construction.	Law fixing premium.	Trial.	In excess of that required.	Less than that required.
Dolphin	May 28, 1885	Mar. 3, 1883	None	2,240	.....	60
Atlanta	Apr. 13, 1887	....do	None	3,345	.....	155
Boston	Sept. 6, 1887	....do	None	3,780	280	.....
Chicago	Dec. 22, 1887	....do	None	5,084	84	.....
Yorktown	Feb. 13, 1889	....do	Sept. 7, 1888	3,398.25	398.25	.....
Charleston	Aug. 23, 1889	....do	Sept. 7, 1888	6,666.16	.....	333.84
Baltimore	Sept. 14, 1889	Aug. 3, 1886	....do	8,977.88	.....	22.12
	Nov. 15, 1889			10,064.42	1,064.42	.....
Petrel	Aug. 19, 1889	Mar. 3, 1885	....do	1,095.15	.....	4.85
Newark	Dec. 22, 1890	Mar. 23, 1885 / Mar. 3, 1887	....do	8,868.57	368.57	.....
Concord	Jan. 13, 1891	....do	....do	3,404.53	4.53	.....
Bennington	Apr. 2, 1891	....do	....do	3,436.09	36.09	.....
Monterey	Jan. 5, 1893	....do	....do	5,072.77	.....	327.23

Name of ship.	Premium earned.	Penalty imposed.	To or by whom paid.	Steam pressure.		Duration of trial.
				In boilers.	For which designed.	
Dolphin	.....	None	.....	86	90	Six hours.
Atlanta	.....	None	.....	89	90	Do.
Boston	None	.....	.....	87	90	Do.
Chicago	None	.....	.....	90	90	Do.
Yorktown	$39,825	.....	William Cramp & Sons..	160	150	Four hours.
Charleston	.....	$33,884	Union Iron Works	91	90	Do.
Baltimore	.....	Contractors allowed another trial ...		122	135	Do.
	106,442	.....	William Cramp & Sons.	135	135	Do.
Petrel	.....	485	Columbian Iron Works .	90	100	Do.
Newark	36,857	.....	William Cramp & Sons.	162	160	Do.
Concord	453	.....	N. F. Palmer, jr., & Co ..	164	160	Do.
Bennington	3,609	.....	....do	166	160	Do.
Monterey	.....	32,723	Union Iron Works.....	155	160	Do.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 21.

UNION PACIFIC RAILROAD COMPANY.

LETTER

FROM

THE ATTORNEY-GENERAL,

TRANSMITTING,

Pursuant to House resolution, information relating to the Union Pacific Railroad.

OCTOBER 20, 1893.—Referred to the Committee on the Pacific Railroads and ordered to be printed.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 20, 1893.

SIR: I have the honor to acknowledge the receipt of the resolution of the House of Representatives, by which, referring to recent legal proceedings whereby the Union Pacific Railway Company has passed into the hands of receivers appointed by a court of the United States, the Attorney-General is requested to inform the House whether the Government of the United States had any notice of or was made a party to any such proceedings; whether such proceedings are valid in law as against the United States in its relations to said company and in any way affect the interests of the United States in said company as protected and secured by existing laws; what action, if any, the Attorney-General has taken or proposes to take in the matter, and whether any further legislation is necessary to empower him to take such action in the premises as may be deemed necessary to protect and secure the indebtedness of said company to the United States.

In compliance with such request I have the honor to say that the United States was not a party to the proceedings referred to and was without notice of them until after they had been taken; that there is grave doubt as to the validity of such proceedings so far as the United States is concerned, and that in their practical, if not their technical, operation and effect such proceedings must be regarded as tending to seriously prejudice the interests of the United States as protected and secured by existing laws.

The only action yet taken by me in the premises has been the employment of the Hon. George Hoadley, of New York, as special counsel for the United States—an employment rendered necessary by the fact that the entire force of the Department of Justice is no more than adequate to the current demands upon it, and that the complexity of

the affairs of the Union Pacific Railway Company, the important questions raised by the receivership, and the enormous indebtedness of the company to the United States require that its interests should receive the continuous and almost exclusive attention of competent counsel.

It is more than probable that the proper protection of the interests of the United States will be found to call for special legislation by Congress. But, until further investigation and knowledge both of the facts and the law involved, it would be unwise to attempt to indicate the precise legislation needed. Upon that particular subject, therefore, I shall, with the leave of the House, make an additional report to it at as early a day as practicable.

Very respectfully,

RICHARD OLNEY,
Attorney-General.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

53D CONGRESS, } HOUSE OF REPRESENTATIVES. { EX. DOC.
1st Session. } { No. 22.

DETAINED PAY TO DISCHARGED ENLISTED MEN.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING

A copy of a letter from the Paymaster-General of the Army with inclosures relating to the payment of detained pay to discharged enlisted men.

OCTOBER 25, 1893.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., October 24, 1893.

SIR: I have the honor to transmit herewith for the information of the Committee on Military Affairs, House of Representatives, a letter from the Paymaster-General of the Army, dated the 17th instant, inclosing a copy of the decision of the Second Comptroller of the Treasury, dated September 6, 1893, in reference to the payment of detained pay to discharged enlisted men, and also copies of General Orders Nos. 63 of 1889, 38 of 1890, and Circular No. 3, A. G. O., 1891, upon the subject.

It is held by the Paymaster-General that the ruling of the Comptroller would result in a hardship to soldiers discharged with credits of detained pay that can not be adjusted at the time of their discharge, but must be adjusted through the Treasury Department, and to remedy this hardship he submits a joint resolution relating to the payment of detained pay to the enlisted men of the Army upon discharge, a copy of which is inclosed.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WAR DEPARTMENT,
PAYMASTER-GENERAL'S OFFICE,
Washington, D. C., October 17, 1893.

SIR: I have the honor to invite attention to the accompanying decision of the Second Comptroller, of September 6, 1893, in reference to the

payment of detained pay to discharged enlisted men, also to General Orders Nos. 63 of 1889, 38 of 1890, and Circular No. 3, A. G. O., 1891, upon that subject.

The rule announced by the Second Comptroller is that items of detained pay, when repaid, must be charged against the Army pay appropriation of the year in which the individual sums were withheld. It thus forbids the repayment of such sums as were withheld during periods covered by lapsed appropriations. Inasmuch as officers of the Pay Department have control of appropriations for three fiscal years only, they would, under this rule, be authorized to repay to discharged soldiers only such items of detained pay as have been withheld during the present and the two immediately preceding fiscal years. It would follow from this that for repayment of items of detained pay withheld prior to July 1, 1891, the soldier would be compelled to make claim through the Treasury Department.

This process of recovery would be so tedious as to be about equivalent to confiscation. It is not intended by this to find fault with the rule of the Comptroller, or to claim that it has not the support of law. It, however, is intended to emphasize the hardship, if not wrong, that must inevitably result to soldiers discharged with credits of detained pay which can not be adjusted at the time of their discharge.

To remedy the wrong herein pointed out, I have the honor to submit the accompanying form of joint resolution, and recommend it be submitted to Congress.

Very respectfully,

WM. SMITH,
Paymaster-General, U. S. Army.

The SECRETARY OF WAR.

TREASURY DEPARTMENT,
OFFICE OF THE SECOND COMPTROLLER,
Washington, D. C., September 6, 1893.

SIR: I am in receipt of your letter of the 6th instant. On August 17, 1893, in the case of Henry Cooney, private, Hospital Corps, U. S. Army, I made the following ruling:

[Pay detained by sentence of court-martial pursuant to General Orders No. 63, A. G. O., of 1889.—Appropriation.—Opinion.]

Nine dollars of a soldier's monthly pay in October, 1889, were detained until his discharge in November, 1892, by sentence of a court-martial under the provisions of General Orders, No. 63, dated A. G. O., July 6, 1889, further defined in paragraph IV, Circular No. 3, A. G. O., dated April 8, 1891.

On July 1, 1892, the appropriation for the fiscal year ending June 30, 1890, out of which the soldier's pay for the month of October, 1889, was payable, lapsed and was covered into the Treasury.

It does not appear that any law has been passed authorizing the payment of money detained by sentence of court-martial out of the appropriation for the fiscal year in which the soldier is discharged, that the requirements of section 3664 of the Revised Statutes respecting the introduction of new items into estimates for appropriations have been complied with, or that any provision for payment of the amount detained has been made in the appropriation for the support of the Army for the fiscal year ending June 30, 1893.

I am, therefore, of the opinion that money detained from a soldier until his discharge, by sentence of court-martial, can be paid only out of the appropriation for the fiscal year in which it was detained, and, if that appropriation has lapsed, a report must be made to Congress for an appropriation.

This is the only decision made by the present Comptroller upon the subject of detained pay.

Respectfully,

C. H. MANSURE,
Second Comptroller.

Maj. A. E. BATES,
Acting Paymaster-General, U. S. Army.

JOINT RESOLUTION relative to the payment of detained pay to enlisted men of the Army upon discharge.

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That sums known as detained pay, which have already been or may hereafter be withheld from the monthly pay of enlisted men of the Army in obedience to court-martial sentences, shall, when repaid, become a charge against the fund "pay of the Army" for the year in which said enlisted men have been or may be discharged.

[Extract from General Orders, No. 63.]

Upon conviction of offenses punishable at the discretion of courts-martials a soldier may be sentenced to have his monthly pay, or a stated portion thereof, retained from him for such periods as the court, subject to the restrictions of the eighty-third Article of War, may direct. The amounts so retained will be paid only on the final statements furnished enlisted men on discharge from the service.

[Extracts from General Orders, No. 38.]

1519. An enlisted man discharged for minority concealed at enlistment, or for other cause involving fraud on his part in the enlistment, is not entitled to pay and allowances, including those for travel, and shall not receive final statements unless deposits or detained pay are due him, in which case final statements, containing only a list of his deposits, or the amount of pay so detained, will be furnished.

[Extract from Circular No. 3.]

IV. *Detained pay.*—By the phrase "detained pay" (paragraph 1519 of the Regulations, as amended by General Orders, No. 38, of 1890, from this office) is meant such amounts of the pay of enlisted men as, *by sentence of court-martial,* are to be withheld until the soldier's discharge.—[General decision, March 10, 1891—3096 A. G. O., 1891.]

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53D CONGRESS, *1st Session.* } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 23.

PAY OF CERTAIN EMPLOYÉS, COURT OF APPEALS, DISTRICT OF COLUMBIA.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A copy of a communication from the chief justice of the court of appeals of the District of Columbia requesting an appropriation to pay certain employés of the court.

OCTOBER 27, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 26, 1893.*

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the chief justice of the court of appeals of the District of Columbia, of the 24th instant, requesting an appropriation to pay the following employés of the court, as authorized by the act establishing the court but not provided for:

For crier from date of appointment, May 25, 1893, to June 30, 1894: For the fiscal year 1893, $19.35; for the fiscal year 1894, $1,200.

For messenger from date of appointment, May 1, 1893, to June 30, 1894: For the fiscal year 1893, $120; for the fiscal year 1894, $720.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

WASHINGTON, D. C., *October 24, 1893.*

DEAR SIR: By virtue of the act of Congress of the 9th of February 1893, chapter 74, passed to establish the court of appeals of the District of Columbia. the court appointed a crier and a messenger of the court, the appointment of the former dating from the 25th day of May, 1893, with compensation at the rate of $100 per month, and the appointment of the latter, dating from the 1st day of May, 1893, at the rate of $60 per month; but, owing to some oversight, there was no appropriation made to pay either of these officers by either the defi-

ciency bill or the general appropriation bill of the last session of Congress, and the consequence has been that they have been serving in their places without receiving any compensation, but depending upon appropriations for that purpose to be made by a future deficiency appropriation bill that may be passed by Congress.

I beg, therefore, to call your attention to these objects, that may form proper items for some deficiency bill that may be introduced upon the suggestion or recommendation of your Department.

I am, your obedient servant,

A. H. ALVEY,
Chief Justice, Court of Appeals, District of Columbia.

The SECRETARY OF THE TREASURY.

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53D CONGRESS, *1st Session.* } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 24.

ADDITIONAL APPROPRIATION FOR DEPARTMENT OF JUSTICE.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A copy of a communication from the Attorney-General submitting an additional estimate of appropriation for the use of the Department of Justice.

OCTOBER 27, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 26, 1893.*

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Attorney-General of the 24th instant, submitting additional estimates of appropriations for the following objects:

Fees and expenses in suits against Benjamin Weil and La Abra Mining Company	$10,000
Expenses of litigation in case of the United States against Thomas *et al.*, in the interest of the Eastern Band of Cherokee Indians, North Carolina	5,000
Contingent expenses, Department of Justice; transportation, 1894	1,000

Respectfully yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 24, 1893.

SIR: You are respectfully requested to forward to the Speaker of the House of Representatives the following deficiencies in appropriations made for this Department, to be considered as urgent, and for which appropriations are needed and requested at the present session of Congress.

(1) Fees and expenses in suits against Benjamin Weil and La Abra Mining Company, $10,000.

For expenses necessarily incurred, and to be incurred, in the prosecution of the suits directed by acts approved December 28, 1892, to be brought in the name of the United States against Benjamin Weil, or his legal representatives and assigns, and La Abra Mining Company, its successors and assigns, $10,000, which shall include all counsel fees, and shall be expended under the direction of the Attorney-General.

The estimate of $10,000 is made by the special counsel in the case, R. B. Lines, in a letter to the Department, copy of which is inclosed, presenting a history of the Weil and La Abra cases, and a statement as to the probable time and expenses that will be necessary to bring them to a conclusion.

The appropriation of $1,500 has to its credit about $160, the remainder of the appropriation having been paid in fees to special counsel, the other expenses being for printing certain advertisements in the Washington Post, of this city.

(2) Appropriation for defraying the expenses of litigation in the case of the United States against Thomas *et al.*, in the interest of the Eastern band of Cherokee Indians, North Carolina, $5,000.

The money heretofore appropriated is completely exhausted. There is at present payable a large bill for the expenses of the surveyor, who has threatened at times to abandon the work unless he can get compensation for his services, as well as for the expenses necessarily incurred by him in the discharge of his duties. As the work is continuous, and a large amount is already chargeable against the United States and properly payable, the appropriation is recommended as urgent, that the parties interested may be compensated promptly as the work goes on.

(3) Contingent expenses, Department of Justice, transportation, 1894. For official transportation, including purchase, keep, and shoeing of animals, and purchase and repairs of wagons and harness, $1,000.

The present appropriation of $500 will soon be exhausted. This item is made urgent because one of the horses is inefficient, is depreciating in value, and liable to be an actual loss; if sold now, $100 can be obtained for him, and another horse be bought for $200; and because the present carriage is not worth the constant repairs required to make it serviceable.

Very respectfully,

RICHARD OLNEY,
Attorney-General.

The SECRETARY OF THE TREASURY.

WASHINGTON, D. C., *October 17, 1893.*

SIR: In compliance with your instructions of the 14th instant I submit herewith a statement of the history and condition of the Weil and La Abra cases, the issues which they prcsent, and the probable time and expense necessary to bring them to a conclusion.

The Weil claim was founded on the alleged seizure by Mexican soldiers of a large amount of cotton on the Mexican side of the Rio Grande between Laredo and Eagle Pass in the year 1864. La Abra claim was for the alleged expulsion of La Abra Mining Company from its mines in the mountains of Mexico, on the border between the States of Durango and Sinaloa (about 150 miles by mule trail from Mazatlan), in the year 1868.

In 1875 awards were rendered by the mixed commission of the United States and Mexico in favor of the claimants amounting to about $500,000 in the Weil case and $700,000 in La Abra. These awards were based upon the testimony of 28 witnesses in the Weil case and 59 witnesses in La Abra case.

Mexico moved for a rehearing in each case on the ground that the awards were wholly based on perjured evidence, supporting her motion in the Weil case by affidavits of 11 witnesses and documentary evidence alleged to consist of original papers of the claimant. Both motions were denied by the umpire, who stated that he had no authority to entertain them and referred the appeal of Mexico to the Government of the United States. Pending its consideration Mexico secured the "press copy book" and certain other documents of La Abra Company, identified by the affidavit of one of its superintendents, and submitted it to the United States in support of her appeal.

Congress took jurisdiction of the questions presented and, in an act passed June 18, 1878, providing generally for the distribution of the moneys paid and to be paid by Mexico in satisfaction of all the awards against her, requested the President to investigate the charges of fraud presented by Mexico with respect to these two claims, and authorized him (if, in his opinion, the honor of the United States, the principles of public law, or considerations of justice and equity required that the awards should be opened and the cases retried) to withhold payment of the awards until the cases should be retried and decided in such manner as the United States and Mexico might agree, or until Congress should otherwise direct.

In May, 1879, Mr. Evarts, Secretary of State, heard argument, lasting five days, on behalf of Mexico and the claimants, and in August, 1879, he reported to the President his conclusions—that neither the principles of public law nor considerations of justice and equity required or permitted a retrial of the claims before a new commission with Mexico as a party, but that the honor of the United States did require an investigation by a domestic tribunal under authority of Congress. In La Abra case, he said, this investigation should extend only to the question of the measure of damages, and in a later report, made in September, he recommended the payment to La Abra Company of the amount then in hand applicable to the award in its favor (about $140,000), which was made. Upon this point Mexico asked for a review of the Secretary's decision.

The two reports of Mr. Evarts, with some additional observations in support of his decision against a retrial before a new international commission, were transmitted to the Senate in May, 1880, in reply to a resolution of that body passed in February. In this communication Mr. Evarts announced that, if Congress should adjourn without providing for a judicial investigation of the cases, it would be the duty of the Executive to pay over the money then in hand to the claimants in both cases.

Congress adjourned in June, 1880, without making such provision. The Mexican legation then instructed counsel to prepare bills in equity to be filed in the United States courts against the claimants with Mexico as complainant. To this course Secretary Evarts entered a diplomatic objection and the bills were not filed. The distribution of the money was then proceeded with until some $500,000 had been paid out on both cases.

Secretary Frelinghuysen suspended payment and negotiated a treaty with Mexico for the retrial of the cases, which failed of ratification in the Senate by one vote. Pending its consideration, and also after its defeat, the claimants applied for writs of mandamus to compel payment of the moneys, but the writs were denied. These suits settled the right of the Government, in its political capacity, to control the fund held to meet the awards.

After a long period of inaction an investigation was undertaken in 1888 by the Senate Committee on Foreign Relations. In La Abra case a hearing was had extending over several months, and fifteen witnesses were examined. The testimony covers over 900 printed pages. Strong reports were made by this Committee and afterward by the Foreign Affairs committee in the House denouncing both claims as frauds, and these reports resulted in the passage of the acts of December, 1892, directing the bringing of suits in the Court of Claims against the claimants in the name of the United States.

Although these acts passed both Houses some days before their adjournment for the holidays, they were not presented to the President until after such adjournment, and the question was immediately raised whether he could constitutionally approve them, inasmuch as the adjournment was for more than ten days. An opinion adverse to the right of approval was prepared in the Department of Justice, and was about to be signed by your predecessor, Mr. Miller, but upon some authority in favor of such right being shown him he suppressed the opinion and recommended the President to sign the acts, leaving the question to be determined in the courts. It has now been raised, with other questions, by the demurrers to the bills filed by several of the defendants.

I need not suggest to you the importance of this constitutional question (which has never been passed upon). A decision in favor of the validity of these acts would establish the right of the President to approve a bill within ten days after the close of any session of Congress. It would do away with the necessity of the session of the Cabinet at the Capitol on the last day of the session, and would enable the President and his officers to carefully examine all bills, as they can not do under existing conditions.

The acts of 1892 failed to make any appropriations to carry out their instructions, the committees doubtless supposing the regular appropriations for your Department to be available for the purpose. It was found, however, that as to suits in the Court of Claims, the general appropriations were for the "defense," and not the prosecution of suits. Moreover, as the regular officers of your Department were constantly engaged with its ordinary business, it was thought that the suits would be speeded by engaging counsel specially familiar with them, and for this reason,

having been in the cases sixteen years, I was appointed a special assistant to your predecessor. Mr. Miller, however, limited my employment to the preparation of the bills, not wishing, as he said, to embarrass his successor in the choice of counsel. He also said that he would ask for an appropriation sufficient only to start the suits, leaving it to the next Congress to provide for their continuance. Congress appropriated $1,500, limiting it, however, to the Weil case.

The preparation of the bills occupied about two months, and they were signed by you and filed in March last. You approved my bill for $750, which was paid, and my functions expired. I, however, assisted Mr. Cotton in the preparation of the special rules of court provided for in the statutes, which, however, were not promulgated for several months, thus delaying the appearance of defendants. On my reappointment by you on the 1st of July, I attended to the service of subpœnas and to the publication against absent defendants, and have since given all necessary attention to speeding the causes, without compensation.

I inclose herewith slips showing the names of the defendants, 35 in the Weil case and 22 in La Abra case. Almost all of these came into the cases by the assignment to them of contingent interests in the claims or awards, generally as counsel fees for representing the claimants before the commission, the Department of State, the Senate, the House of Representatives, and the courts. Some came in before and some after the $500,000 was paid over. Among them you will recognize the names of excabinet officers, judges on the bench, and others eminent at the bar. In addition to those named as defendants, I am informed that there are outstanding assignments in favor of other persons, but as I could not find such assignments on file in the Department of State I could not, when the bills were drawn, make the assignees defendants, and could only ask discovery of their names from the others. I have met most of the lawyer defendants in one or the other of the many arguments which have been had in these cases, and have found them as well equipped mentally for the struggle as they were pecuniarily after the $500,000 was paid over by Mr. Evarts.

Some of the defendants have appeared in proper person, others by able counsel not named as defendants. In each case demurrers have been filed raising constitutional points—the one above referred to touching the signature of the statutes and the further point that the questions involved are not judicial but political, and there is no "case" at law or in equity before the court. On this point much doubt was expressed in the Senate when the acts of 1892 were under discussion, many Senators contending that the cases could not be appealed to the Supreme Court, as provided in the acts.

In addition to these jurisdictional questions that of the rights of assignees for value and without notice is raised; and in both cases answers have been filed denying the facts alleged in the bills. Applications to extend the time for pleading have been made by several defendants.

Under a rule of court, evidence may be taken at any time in either case, unless all the defendants in such case elect to stand on demurrer or plea. Whether this can be enforced may be questioned, but it is of the utmost importance to the success of the suits that the evidence should be taken at the earliest possible day. The possibility of the death of witnesses to transactions alleged to have occurred twenty-five or thirty years ago is a constant menace.

In the Weil case the witnesses for the Government reside mainly in Louisiana, Mississippi, and Texas. In La Abra case testimony may have to be taken in New York, California, and perhaps at the site of the mines in the mountains of Mexico. This would be better done, probably, on oral examination by a person already familiar with the cases than on interrogatories. But, however it may be done, the expense must be considerable. Including traveling expenses, witnesses', commissioners', and stenographers' fees, together with such reasonable counsel fees as you, in view of the importance of the suits, the work involved, and the practice of the Government in similar cases, might determine, I should say that $10,000 would be a small estimate. That is not quite 1½ per cent of the sum at stake ($700,000). Of course the United States has no money interest in the suits, but the defendants have, and will fight earnestly to protect it, as they have done hitherto.

If funds were now available to proceed with the suits I believe they could be tried at the present term of the Court of Claims, and the appeals, if taken, advanced in the Supreme Court to be disposed of before the end of 1894. This would be my aim if my connection with the cases should continue.

I have the honor to be, very respectfully, yours,

ROBERT B. LINES.

Hon. RICHARD OLNEY,
Attorney-General.

Subpœna to answer original bill.

The United States *vs.* Alice Weil, widow in community of Benjamin Weil, deceased; George Weil, John B. Vinet, public administrator of the parish of Orleans, State of Louisiana, administering the estate which was of Benjamin Weil, deceased; Caroline Cain and Adolph Marks, executors of the last will and testament of Lambert B. Cain, deceased; Elizabeth C. Hays, widow in community of Harry T. Hays, deceased; Elizabeth C. Hays, tutrix of John Hays, Lucy Hays, Kate Hays, and Minerva Hays, minors; John Hays, Lucy Hays, Kate Hays, and Minerva Hays, minors; Marie Emma Braughn, widow in community of George H. Braughn, deceased; George Horace Braughn; Marie Louise Braughn; Julia Anna Braughn; Marie Emma Braughn, tutrix of Marguerite Braughn, James Dudley Braughn, Florence Bertha Braughn, Corinne Virginia Braughn, and Marie Lucie Braughn, minor children and heirs of George H. Braughn, deceased, and as such administratrix of the estate which was of said George H. Braughn, deceased; Marguerite Braughn, James Dudley Braughn, Florence Bertha Braughn, Corinne Virginia Braughn, and Marie Lucie Braughn, minors; Charles F. Buck; Max Dinkelspiel; William O. Hart; Charles F. Buck, Max Dinkelspiel, and William O. Hart, trading under the name and firm of Buck, Dinkelspiel & Hart; Hettie Ann Key, executrix of the last will and testament of John J. Key, deceased; Henry E. Davis, administrator *de bonis non* of the estate which was of Philip B. Fouke, deceased; Lucy Warden; Charles G. Warden; Sanders W. Johnston; Jacob O. De Castro; John Nicholson; George S. Boutwell; Sylvanus C. Boynton; and John W. Burke, executor of the last will and testament of William W. Boyce, deceased, defendants.

Subpœna to answer original bill.

The United States *vs.* La Abra Silver Mining Company; George Ticknor Curtis; John H. Rice; Eugene Jones; Sumner Stow Ely; Cyrus C. Camp, executor of the last will and testament of Herman Camp, deceased; Ellen V. Camp; The American Security and Trust Company, administrator with the will annexed of the estate which was of Samuel C. Pomeroy, deceased; Edward S. Hamlin, administrator with the will annexed of the estate which was of Thomas W. Bartley, deceased; Samuel Shellabarger; Jeremiah M. Wilson; Katie L. Hatch; Charles T. Parry; Joseph Hopkinson; Sterling B. Toney; Henry S. Foote, executor of the last will and testament of Henry S. Foote, deceased; Frederick P. Stanton; Daniel M. Adams, executor of the last will and testament of Alonzo W. Adams, deceased; John W. Burke, administrator of the estate which was of William W. Boyce, deceased; Edward M. Harrington, Crammond Kennedy, and George H. Williams, defendants.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 25.

ADDITIONAL APPROPRIATION FOR REGISTERS AND RECEIVERS.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A copy of a communication from the Secretary of the Interior submitting estimates of deficiencies in the appropriation for salaries and commissions of registers and receivers.

OCTOBER 27, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 26, 1893.*

SIR: I have the honor to transmit herewith, for the consideration of Congress, copy of a communication from the Secretary of the Interior, of the 21st instant, submitting estimates of deficiencies in the following appropriations:

Salaries and commissions of registers and receivers for the fiscal year 1893.	$8,500.00
Reproducing plats of surveys, General Land Office, for the fiscal year 1893.	47.75

Respectfully yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
Washington, October 21, 1893.

SIR: I have the honor to transmit herewith estimates of appropriations to meet deficiencies required for the public land service for the fiscal year ending June 30, 1893, and respectfully request that the same be transmitted to Congress at the earliest practicable moment, to be incorporated in the next urgent deficiency bill to be reported at the present session.

Very respectfully,

HOKE SMITH,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 19, 1893.

SIR: I have the honor to submit herewith, in duplicate, estimates of deficiency appropriations required for the public land service for the fiscal year, ending June 30, 1893.

In order that the registers and receivers of the district land offices may receive, as soon as practicable, the amounts due them on account of salaries, fees, and commissions for the quarter ending June 30, 1893, I have to request that the estimates be forwarded to the honorable Secretary of the Treasury, with the request that they be placed in the first deficiency appropriation bill that may be reported to Congress.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

Estimates of appropriations required for the service of the fiscal year ending June 30, 1893, by the General Land Office.

General object. (Title of appropriation.) Detailed objects of expenditure and explanations.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the fiscal year for which the appropriation is required.
Salaries and commissions of registers and receivers:		
To pay the amount of salaries and commissions due registers and receivers of district land offices for the fiscal year ending June 30, 1893 (R. S., p. 392, secs. 2237, 2238; R. S., p. 393, sec. 2240; August 5, 1892, vol. 27, p. 368, sec. 1)	$8,500.00	$550,000
NOTE.—In order to enable the accounting officers of the Treasury to pay the amounts found due the registers and receivers upon the adjustment of their accounts by this office for the quarter ending June 30, 1893, the amount asked for will be necessary, as the appropriation of $550,000 for the payment of the salaries and commissions earned by registers and receivers during the fiscal year ending June 30, 1893, has been exhausted, and the unsettled balances due them amount in the aggregate to the sum estimated for herein.		
Reproducing plats of surveys, General Land Office:		
To pay amount due the Globe Printing Company, of St. Louis, Mo., for advertising proposals for photolithographing township plats, authorized August 31, 1892, by the Secretary of the Interior, being for the service of the fiscal year 1893 (August 5, 1892, vol. 27, p. 369, sec. 1) $15.75		
To pay amount due the New York Press Company, limited, of New York City, N. Y., for advertising proposals for photolithographing township plats, authorized August 31, 1892, by the Secretary of the Interior, being for the service of the fiscal year 1893 (same act) 32.00		
	47.75	3,000
Total	8,547.75	553,000

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 26.

INSPECTORS, GENERAL LAND OFFICE.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

A copy of a communication from the Secretary of the Interior submitting an estimate of deficiency in the appropriation for expenses of inspectors of the Land Office for the current fiscal year.

NOVEMBER 1, 1893.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *October 31, 1893.*

SIR: I have the honor to transmit herewith, for the consideration of Congress, an estimate of deficiency in the appropriation for expenses of inspectors, General Land Office, for the current fiscal year, $4,000, as submitted by the Secretary of the Interior on the 28th instant.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
Washington, October 28, 1893.

SIR: I have the honor to transmit herewith a supplemental estimate of appropriation of $4,000 for "Expenses of inspectors, General Land Office, 1894," rendered necessary in order to meet additional expenses of the three inspectors in connection with the opening of the four new land offices in Oklahoma.

The estimate is approved and the early and favorable action of Congress is respectfully requested.

Very respectfully,

HOKE SMITH,
Secretary.

The SECRETARY OF THE TREASURY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 25, 1893.

SIR: I have the honor to submit herewith, in duplicate, a supplemental estimate of appropriation of $4,000 for "Expenses of inspectors, General Land Office, fiscal year 1894." The expenses chargeable and paid from this appropriation in connection with the opening of the four new land offices in the Territory of Oklahama, for the disposal of lands opened to settlement under the act of March 3, 1893, renders necessary the supplemental appropriation asked for in order to provide for the payment of the per diem and traveling expenses of the three inspectors of this office to the end of the fiscal year 1894.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. HOKE SMITH,
Secretary of the Interior.

Estimates of supplemental appropriations required for the service of the fiscal year ending June 30, 1894, by the General Land Office.

General object (title of appropriation), detailed objects of expenditure, and explanation.	Total amount to be appropriated under each head of appropriation.	Amount appropriated for the current fiscal year ending June 30, 1894.
Expenses of inspectors, General Land Office:		
For per diem, in lieu of subsistence of inspectors and of clerks detailed to investigate fraudulent land entries, trespasses on the public lands, and cases of official misconduct; also, of clerks detailed to examine the books of and assist in opening new land offices, while traveling on duty, at a rate to be fixed by the Secretary of the Interior, not exceeding $3 per day, and for actual necessary expenses of transportation, being for the service of the fiscal year 1894. (Appropriated, Vol. 27, p. 704, sec. 1).....	$4,000	$7,000
NOTE.—The expenses chargeable and paid from this appropriation in connection with the opening of the four new land offices in the Territory of Oklahoma, for the disposal of lands opened to settlement under the act of March 3, 1893, renders necessary, in order to provide for the payment of the per diem and traveling expenses of the three inspectors of this office to the end of the fiscal year June 30, 1894, the supplemental appropriation asked for herein.		

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 27.

OPENING OF THE CHEROKEE STRIP.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING,

Pursuant to House resolution dated September 28, 1893, information relative to the opening of the Cherokee Strip.

NOVEMBER 2, 1893.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, D. C., November 1, 1893.

SIR: I have the honor to acknowledge the receipt of the resolution of the House of Representatives, dated September 28, 1893, requesting the Secretary of War "to report to the House what part the Army of the United States had in the opening of the Cherokee Strip on September 16, 1893, and under what orders it acted, and whether said orders were violated, and whether any outrages were committed by the troops upon any civilians entering said Strip."

In response to the above resolution there are transmitted herewith copies of the reports of Col. E. M. Heyl, inspector-general, Department of the Missouri, and Capt. Jesse M. Lee, Ninth Infantry, assistant, and accompanying papers, which appear to contain all the information called for by the resolution.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

[Fifty-third Congress, First session.]

CONGRESS OF THE UNITED STATES,
In the House of Representatives, September 27, 1893.

Resolved, That the Secretary of War be requested to report to the House what part the Army of the United States had in the opening of the Cherokee Strip on September 16, 1893, and under what orders it acted, and whether said orders were violated, and whether any outrages were committed by the troops upon any civilians entering said Strip.

Attest:

JAMES KERR,
Clerk.

[First indorsement.]

HEADQUARTERS OF THE ARMY,
Washington, September 29, 1893.

Respectfully returned to the Secretary of War with the recommendation that the Adjutant-General be instructed to call upon the department commander for any information, as within indicated, not heretofore called for, with reference to previous papers submitted to the Secretary of War on the 25th instant.

J. M. SCHOFIELD,
Major-General, Commanding.

[Second indorsement.]

WAR DEPARTMENT, *September 29, 1893.*

Respectfully referred to the Adjutant-General to comply with the recommendation of the Major-General commanding the Army.

By order of the Secretary of War:

JOHN TWEEDALE,
Chief Clerk.

[Third indorsement.]

ADJUTANT-GENERAL'S OFFICE,
Washington, September 29, 1893.

Respectfully referred to the commanding general, Department of the Missouri for full report in connection with previous papers on the subject.

By order of the Secretary of War:

H. C. CORBIN,
Assistant Adjutant-General.

[Fourth indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, October 3, 1893.

Respectfully referred to the inspector-general of the department for full report in connection with previous papers on the subject referred to him on the 28th ultimo.

By command of Major-General Miles:

J. P. MARTIN,
Assistant Adjutant-General.

[Fifth indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
INSPECTOR-GENERAL'S OFFICE,
Chicago, October 20, 1893.

Respectfully returned to the assistant adjutant-general of the department, inviting attention to my report of investigation dated October 19, 1893.

E. M. HEYL,
Colonel, Inspector-General.

[Sixth indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, October 23, 1893.

Respectfully returned to the Adjutant-General of the Army.

The complete report of Col. Heyl and Capt. Lee furnishes all the information that can be obtained upon this subject.

The duty placed upon the troops of holding 100,000 people, composed of all classes, was very important and difficult, especially when it is taken into consideration that a long line had to be guarded in order to do full justice to all concerned and prevent trespassers from entering the Territory before the time announced in the President's proclamation.

Mr. Hill was undoubtedly disregarding the order of the President.

NELSON A. MILES,
Major-General, Commanding.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
INSPECTOR-GENERAL'S OFFICE,
Chicago, Ill., October 19, 1893.

SIR: In obedience to instructions contained in your letter dated September 21, 1893, I have the honor to submit the following report of an investigation into the conduct of United States troops engaged in opening of the Cherokee Strip on September 16, 1893.

This investigation was initiated by a telegram from the office of the Adjutant-General of the Army, dated September 20, 1893, which directed the commanding general, Department of the Missouri, to make or cause to be made as soon as possible a full investigation and report of the circumstances attending the reported killing of various homesteaders by United States troops in the Cherokee Strip, as set forth by press dispatches of recent dates, notably those printed in the New York World. The dispatches mentioned state that John R. Hill, of Keansburg, N. J., and various other homesteaders were killed by soldiers; that settlers have fallen victims to prairie fires which were started by soldiers; that the troops were bribed by "sooners" and are guilty of cruelty, drunkenness, etc.

On September 28 I was furnished copy of telegram from the Adjutant-General's Office, communicating House resolution of same date, calling on the Secretary of War for report to the House as to what part the Army of the United States had in the opening of the Cherokee Strip on September 16, 1893, under what orders it acted, and whether said orders were violated, and whether any outrages were committed by the troops upon any civilians entering said Strip.

ORDERS UNDER WHICH TROOPS ACTED.

I find that on August 7, 1893, the major-general commanding the Army telegraphed the commanding general Department of the Missouri to have in readiness the necessary military force to promptly remove absolutely all unauthorized persons from the Cherokee Strip, and to keep it clear until its occupation is authorized by the President's proclamation. In accordance with these instructions a military force was designated and held in readiness to take the field, Lieut. Col. D. Parker, Thirteenth Infantry, being selected to take command.

On August 26, 1893, the following telegram was received at these headquarters:

WASHINGTON, D. C., *August 26, 1893.*

COMMANDING GENERAL DEPARTMENT OF THE MISSOURI,
Chicago, Ill.:

The President, by proclamation of 19th instant (copy by mail), has directed public lands in Cherokee Outlet opened to settlement on the 16th proximo. The law forbids any person to enter upon or occupy any of the said lands before the time fixed in the proclamation. The Acting Secretary of War directs that you detail necessary force from troops in your department to coöperate with agents of Interior Department for the purpose of giving proper and complete effect to the requirements of the proclamation.

By command of Major-General Schofield:

R. WILLIAMS,
Adjutant-General.

This telegram was repeated to Col. Parker. A copy of the proclamation was sent to him and he was directed to consult the agents of the Interior Department and make such disposition of the troops under his control and order such movements as in his judgment may be best

calculated to effect the end in view. He was directed to acquaint himself thoroughly with the condition of affairs, and keep himself in communication and coöperation with the agents of the Interior Department in order to enforce strictly the proclamation of the President.

Col. Parker distributed his force. Districts were assigned for scouting purposes so as to cover the territory included in the strip, and commanding officers were instructed to thoroughly scout the districts assigned to them, and remove promptly and absolutely all unauthorized persons from the Cherokee Strip, recognizing only the permits to enter of Special Agent Womack and Inspector Swineford, of the Interior Department.

Lieut. Col. Parker states that troop commanders were informed that the troops are primarily collected for the purpose of preserving the peace, to protect Government property and the mail, and guard the people from lawlessness and disorder. They were directed to use every effort to promote peace, execute the laws, exercise forbearance by every proper measure before resorting to force, avoid conflict, and prevent difficulties between settlers.

On September 16 the military force was distributed as follows:

Lieut. Col. D. Parker, Thirteenth Infantry, commanding.
First district:
East one-half, Chilloco: Troop C, Third Cavalry, Second Lieut. F. M. Caldwell, commanding.
West one-half, Bluff Creek: Troop E, Third Cavalry, Capt. O. Elting, commanding.
South, Wharton: Troop B, Third Cavalry, Capt. J. B. Johnson, commanding.
Second district:
North, Pond Creek: Troop F, Third Cavalry, Capt. G. A. Dodd, commanding.
South, Enid: Troop A, Third Cavalry, Second Lieut. C. A. Hedekin, commanding.
Third district:
North, Alva: Troop G, Third Cavalry, Capt. F. H. Hardie, commanding.
South, Wynoka: Troop K, Third Cavalry, Capt. G. K. Hunter, commanding.
Fourth district:
Clear Creek: Troop D, Third Cavalry, Second Lieut. K. Walker, commanding.

LAND OFFICES.

Alva.—Company E, Thirteenth Infantry, First Lieut. Marion B. Saffold, Thirteenth Infantry, commanding.
Woodward.—Company B, Thirteenth Infantry, Capt. H. G. Cavenaugh, Thirteenth Infantry, commanding.
Enid.—Company C, Thirteenth Infantry, Capt. W. M. Waterbury, Thirteenth Infantry, commanding.
Perry.—Company G, Thirteenth Infantry, Capt. B. H. Rogers, Thirteenth Infantry, commanding.
Total, eight troops of cavalry, four companies of infantry.

PART THE ARMY HAD IN OPENING OF STRIP.

In obedience to instructions to proceed to such points in the Cherokee Strip, Indian and Oklahoma Territories, and Kansas, as may be necessary to make the investigation, I left my station and arrived at Arkansas City, Kans., September 29. I notified the two daily papers of that place that I was there for the purpose of investigating the killing of Mr. Hill and any outrages or cruelty committed on the part of the troops towards the homesteaders, and requested the editors to have a notice inserted in their papers to that effect, so that any witnesses who wished to testify could do so before me. I also made it known that I would remain several days in the city.

A searching inquiry was made into all circumstances connected with the opening of Cherokee Strip, impartial hearing was given to all who desired to give testimony, and evidence solicited from all classes. Nothing was left undone to secure evidence and come to a thorough understanding of affairs.

FIRST DISTRICT, EAST HALF, CHILLOCO.

Second Lieut. Frank M. Caldwell, commanding Troop C, Third Cavalry, was encamped about 5½ miles from Arkansas City.

He had 40 men for duty; the length of line which he was required to patrol was nearly 70 miles. He states that it was impossible to patrol his district in a proper manner, and is convinced that there were many "sooners" in the strip at time of opening.

Registration commenced on September 10, and a detachment was sent to the booth to guard Government property and preserve the peace. The crowd was very large. The majority of the homesteaders were orderly, but there was the usual assemblage of bad characters who would hesitate at nothing to accomplish their end. These men could only be restrained by force.

On day of opening, September 16, troops were stationed along the line, patrolling back and forth, and explaining to the people that the signal was to be given by a discharge of shots along the line by the soldiers at 12 o'clock noon, standard time.

The people who made the run were assembled along the Kansas State line west of Chilloco Reservation, along the southern line of the reservation, and along the Kansas State line east of the reservation, so that those along the south line of the Chilloco Reservation were 3 miles south of those along the Kansas line.

No deputy United States marshals were seen along the line on day of opening, so that in case of disturbance it was impossible to call upon them to make arrests. (Statements 1 and 2.)

Killing of Hill.—Lieut. Caldwell's line west of Chilloco Strip made a break and rush at about 11:56 a. m. Somebody fired a shot, which was the prescribed signal, and the crowd stampeded, Mr. Hill and several other citizens starting to the front.

As soon as the line broke, Sergt. W. R. Willard and Private Claes Hallencreutz, Troop C, Third Cavalry, galloped to the front, calling upon Mr. Hill and others to halt. As no notice was taken of the command to halt, Sergt. Willard and Private Hallencreutz began firing at those in front in order to stop them. The third shot fired by Sergt. Willard killed Mr. Hill. (Statements 4 and 7.)

The starting of the homesteaders on south side of Chilloco Reservation gave them an advantage of 3 miles' start over those starting from the Kansas line. According to Rev. De Long's statement (No. 8), the rush was made from south line of Chilloco at exactly 12 o'clock noon. The rush from Kansas line was made at least five minutes before 12 noon, from the fact that it was 12:05 when Hill was shot, and that he had then ridden 3 miles from the Kansas State line.

Evidence shows that Hill was killed at southwest corner of Chilloco Strip, range 2 east, township 29, section 32, at 12:05 noon, after having made the run from Kansas line, a distance of 3 miles. (Statements 1 to 29.)

Sergt. Willard interpreted his orders literally, and was zealous in the discharge of his duty. He hoped by firing a few shots to stop

the rush, but seeing it was fruitless ceased firing and let the crowd go without any further effort on his part to stop them.

Drunkenness.—All the cases of drunkenness at the booths were due to the fact that saloons were openly run along the Kansas line. Three saloons were not over 100 yards from the booths.

No attempts were made by the civil authorities to make arrests for violation of the prohibition laws of the State.

Had it not been for this open violation of the law there could have been no charges of drunkenness against the soldiers at this part of the line. (Statements 30 to 44, 1, and 25.)

On September 17, 1893, a horse owned by Mr. E. N. Smith, of Eldorado, was killed by Trumpeter Herman Stechert, Troop C, Third Cavalry. Testimony shows that Stechert was under the influence of liquor when he fired the shot. (Statements 39, 40, 41, 42).

FIRST DISTRICT, WEST HALF, BLUFF CREEK.

Capt. Oscar Elting, commanding Troop E, Third Cavalry, went into camp near Bluff Creek on September 2, and sent out scouting parties to remove from his district all unauthorized persons and cattle.

Every effort was made to keep out intruders, but Capt. Elting can not say positively that at time of opening his district was absolutely clear of "sooners." He believes that it was as clear as was possible, taking into account the extent of territory and large crowds registered. The northern boundary of this district was about 19 miles long, and at the two booths, at Caldwell and Hunnewell, more than 26,000 persons were registered.

Detachments were sent to guard the booths; and on the day of opening a detachment was posted at a point where the Rock Island Railroad enters the Territory.

On day of opening, September 16, the troop was posted along the northern boundary of the district to hold back the crowd until 12 o'clock noon and give the signal simultaneously along the whole line. Capt. Elting took charge of the western portion of his district, Lieut. T. R. Rivers, Third Cavalry, of the eastern portion.

Everything passed off in a satisfactory manner all along the line except at Hunnewell, where Lieut. Rivers was personally. Here, at about one minute before 12 o'clock noon, a mounted man stampeded the crowd, and Lieut. Rivers, recognizing the utter hopelessness of stopping the avalanche, fired the signal shot at about three-fourths of a minute before 12, thinking it better to give all an even chance.

Homesteaders were fairly well behaved. A display of the force at Capt. Elting's command was necessary to restrain the crowd, but no actual employment of force was made.

There was no conflict between soldiers and citizens, and the testimony is very complimentary to the command. (Statements 45, 46, 47.)

FIRST DISTRICT, SOUTH, WHARTON.

Capt. John B. Johnson, commanding Troop B, Third Cavalry, was sent out in June with instructions to clear the strip of intruders and cattle, and remained on this duty until the operations in connection with the opening of the Strip.

He states that, as far as he knows, his district was clear of "sooners" at time of opening.

No force was required here to hold the people back before the proper time to start, but at about three minutes before 12 o'clock some one fired

a shot, which was the prescribed signal for the start; the line broke, and Capt. Johnson, seeing the impossibility of checking the people, and in order to make it fair for all, gave the signal to go.

There was no conflict here, and the immense crowds were managed without riot or bloodshed, and order was maintained throughout.

The conduct of Corporals Jacob Tolin and August Arnold, Troop B, Third Cavalry, is very highly commended. (Statements Nos. 48, 78, 79, 82, 86.)

SECOND DISTRICT, NORTH, POND CREEK.

Capt. George A. Dodd, commanding Troop F, Third Cavalry, was encamped at Pond Creek. His district was 153 miles border and 1,624 square miles in area. In clearing the district of intruders the troop and detachments marched 1,626 miles from the 2d to the 16th of September. Capt. Dodd believes that his district was practically clear of intruders at time of opening.

On September 16 guards were placed over three railroad bridges, at the town sites of Pond Creek and Round Pond and the booth at Cameron; scouting parties were sent along Pond Creek, Polecat Creek and Osage Creek, and remainder of troop scattered along the line between Caldwell and Kiowa.

The line was properly held in check until 12 o'clock noon, September 16. The start was absolutely fair; there are no complaints.

The conduct of the command was very good. The citizens are glad to have the troops with them and petitioned the major-general commanding the department to allow them to remain here for the moral effect. Special attention is invited to copy of resolution by citizens in mass meeting assembled. (Statements 49, 50, 52*a*, 52*b*.)

SECOND DISTRICT, SOUTH, ENID.

Second Lieut. Charles A. Hedekin, commanding Troop A, Third Cavalry, was stationed at Enid, his district being the southern half of the Strip included between the Rock Island Railroad and the meridian of Kiowa.

Patrols were sent out to remove unauthorized persons, but the district is believed to have been not clear of "sooners" at time of opening. Quite a number of intruders were captured during the night preceding the opening. The patrols, however, could not possibly have covered the whole territory.

On day of opening a large crowd, probably about 15,000, had assembled near the Rock Island Railway and about 11,000 of them rushed into the Strip at 11:55 a. m. 4,000 of the homesteaders stood fast until the signal was given at 12 o'clock noon. Lieut. Hedekin states that he could not restrain the break.

Testimony shows that there was no brutality or roughness on the part of the command. (Statements 53, 54.)

THIRD DISTRICT, NORTH, ALVA.

Capt. Francis H. Hardie, commanding Troop G, Third Cavalry, arrived at Alva on August 31, 1893. The troop covered a length of line of nearly 25 miles, with Kiowa City as the central part.

Scouts were sent out and unauthorized persons, horses, and cattle removed. The district is said to have been clear of intruders at time of opening.

On September 16 troopers were posted out in front with orders to keep back the crowd, numbering about 5,000, until the proper time, and promptly repeat the signal for starting. The people were eager and excited. At about four minutes before 12 o'clock some person, either accidentally or on purpose, discharged a pistol in the crowd of horsemen near the railroad bridge. This started the crowd, and Capt. Hardie, seeing quickly that it was impossible to stop the people, fired his pistol, which was answered along the line promptly, and made the start practically simultaneous. The killing of three or four people would not have stopped the crowd in the mad rush.

Testimony of citizens show that the behavior of the troops has been most excellent. (Statements 55 to 61.)

THIRD DISTRICT, SOUTH, WYNOKA.

Capt. George K. Hunter, commanding Troop K, Third Cavalry, was in charge of this district. His line was 60 miles long.

The territory was scouted, and is believed to have contained no intruders at time of opening.

There was little demand for land here, only about 1,000 people entering the Strip.

Capt. Hunter gave the signal to enter by firing his pistol at 12 o'clock noon, standard time. No effort was made by the homesteaders to start before the signal was given.

There are no complaints against the command. (Statement 62.)

FOURTH DISTRICT, CLEAR CREEK.

Second Lieut. Kirby Walker, commanding Troop D, Third Cavalry, was in charge of this district. It is said to have been clear of intruders at time of opening.

The land being very poor and not desirable, there were very few people here to make the run. Only about 30 people on horses and in wagons made the run from Higgins; about 300 were on the train.

The opening passed off peaceably and no complaints are made. The conduct of the command was excellent. (Statements 63 to 66*a*.)

ALVA LAND OFFICE.

First Lieut. Marion B. Saffold, commanding Company E, Thirteenth Infantry, was stationed here.

Guards were detailed at the land office to preserve order and keep the people in line. Everything was peaceable and orderly.

Testimony shows that the troops were courteous. Their conduct is highly commended. (Statements 66*b*, 67, 68.)

WOODWARD LAND OFFICE.

Capt. H. G. Cavenaugh, commanding Company B, Thirteenth Infantry, was stationed here. The troops were on guard to prevent disturbance and see that the first to arrive had first access to the office. No force of any kind was required; no cruelty of any description occurred. All were quiet, peaceable, and orderly. The best feeling prevailed. Testimony commends highly the gentlemanly, courteous conduct of Capt. Cavenaugh and his men. (Statements 69 to 73.)

ENID LAND OFFICE.

Capt. W. M. Waterbury, commanding Company C, Thirteenth Infantry, was stationed here. There was no force used or needed to keep homesteaders quiet. No disturbance occurred. Complaint is made that a soldier, on guard at well, was drunk. (Statements 74, 75, 76.)

PERRY LAND OFFICE.

Capt. B. H. Rogers, commanding Company G, Thirteenth Infantry, had charge of affairs here. Twenty-four "sooners" were arrested on the morning of the opening. The town was opened in a very orderly manner and there was no disturbance that required the interference of the command. No soldiers were placed outside of the land office to run the line, that duty being performed by deputy United States marshals.

Testimony shows that the conduct of the command was excellent. (Statements 77 to 86.)

Perry townsite.—On October 6, 1893, public press dispatches stated that Mr. W. F. Harn, of Oklahoma, charged the troops with occupying a certain block of Perry townsite and excluding homeseekers from same, saying it was a reservation, but that a few days after nearly all of the lots in the block were held by persons belonging to a certain coterie.

The evidence in this case shows that Capt. Rogers was visited by a Mr. Mora, who stated that he was in the employ of the Government, and had been sent to Perry to survey the townsite. He showed Capt. Rogers a map which had B block marked as a public reserve and which, he stated, was in accordance with his survey.

Capt. Rogers moved his camp on B block, and informed homeseekers that they could not stake out lots there, as it had been reserved as a public park.

At about a quarter of 1 o'clock, September 16, Mr. Mora was seen to show a person where to place his stakes on that block. Being asked what he meant by advising people to locate on that square, Mr. Mora gave an evasive answer, but finally showed Capt. Rogers a map which had the park reserve on the other end of the town. He said that the map had been in Perry "a day or so."

Capt. Rogers charges that Mr. Mora, for reasons best known to himself, kept the map in his own possession until his scheme was carried out. (Statements 87, 88.)

BRIBERY.

The result of investigation as to the charge that the troops were bribed by "sooners" is given separately, because of the particular efforts made to secure evidence and the serious nature of the charge.

Great difficulty was experienced in getting at the truth in this matter, many people declining to testify under oath, probably for fear of implicating themselves.

Testimony develops the fact that many attempts were made to bribe not only enlisted men but officers as well. Offers were openly made and appeared to be regarded simply as a matter of business.

Enlisted men of Troop C, Third Cavalry, on duty near Arkansas City, state under oath that bribes were offered them—the amount varying from $1 to $150. (Statements 27, 28, 89, 90, 91, 92, 93.)

Enlisted men of Troop F, Third Cavalry, stationed near Pond Creek, state under oath that offers of money were freely made—the amount

being from $10, for allowing a "sooner" to escape, to $100 and a gallon of whisky, for holding down a lot. (Statements 94 to 100.)

Several citizens testify that somebody told them that soldiers were bribed, or that arrangements to that effect could have been made. These persons evidently believe what was told them, but they seem to know nothing personally as to bribe taking. (Statements 8, 101, 102, 103, 104, 105.)

A citizen of Enid testifies that two soldiers on duty at the land office offered to put him in ahead of others for $5; a citizen of Arkansas City states that a soldier said he would give a party a big start for $5 apiece. (Statements 107 and 108.)

Three citizens of Enid testify that they saw soldiers receiving money from citizens, to be put ahead of others at booth. (Statements 106, 109, 111.)

One citizen of Arkansas City states that he got his certificate of registration by paying two soldiers 50 cents each, and another citizen of the same place says he paid $1 for his certificate. Another citizen states that at Orlando he paid $2.50 for the certificate. The first mentioned citizen is the only one who claims to have paid money directly to soldiers, the other parties paying their money to citizens who, they believe, had to "whack up" with the soldiers. (Statements 112, 113, 114.)

The evidence shows that commanding officers warned their men against taking bribes, and directed and supervised their movements. Moreover, it is conceded by all that the organization of the homesteaders for registration, etc., was perfect, the crowds being divided into squads in charge of captains or leaders who watched all movements very carefully.

Whenever complaint of bribery was made to commanding officers immediate measures were taken to find the guilty party. At Enid a citizen complained to Lieut. Hedekin that a soldier had beaten him out of money which was given the soldier for the purpose of filing a claim in advance. The citizen was given opportunity to identify the soldier, but could not do so. (Statement 53.)

At Enid land office Private William Horne, Company C, Thirteenth Infantry, was accused of receiving a bribe. He is now in jail, but there appears to be doubt as to his guilt, Mr. Milner, city police of Enid, stating that "the authorities arrested the wrong man." (Statements 74 and 115.)

No doubt many of the charges against officers and men accepting bribes are due to the conduct of the Arkansas colonel in uniform who represented himself as Col. Parker, in command of the troops, and to the man who was arrested wearing the uniform of a private soldier, who had been selling privileges. (Statement 48.)

Considering the opportunities and the bribes offered, and the fact that there was a regiment and a half of troops on duty in the Cherokee Strip several weeks before and during the opening, the percentage of soldiers actually accepting bribes is certainly very small. The evidence shows that of forty-one cases where officers and soldiers were offered bribes there were twenty-eight refusals and only ten cases of soldiers actually receiving bribes. Two soldiers were offered bribes, but, on account of some change in arrangements, did not receive the money; and one soldier accused of receiving bribe was not identified.

None of the soldiers accused of accepting bribes having been identified (although one arrest—possibly wrong man—is reported); it is probable that the same soldier may have been accused by more than one

party; hence, the number appearing as having received bribes according to the testimony is liable to be in excess of the actual number. (Statements 106, 110, 111, 112, 115.)

PRAIRIE FIRES.

Careful investigation was made as to who started the prairie fires. There is no evidence whatever that the troops are responsible for these fires.

One citizen testifies that he saw the grass fired by citizens. He is of opinion that this was done so as to retard the rush of the main body of the homesteaders and allow the few to secure the best land. (Statement 116.)

Lieut. Hedekin states that the fires in his district caught from homesteaders' camp fires. (Statement 53.)

Capt. Hardie attributes his escape from prairie fires only to good luck, since a spark from a locomotive could have started one at any time. (Statement 55.)

Capt. Johnson states that fires caught from locomotives, and that some claimants had intentionally burned the grass so as to examine the land or soil. (Statement 48.)

All testimony, and it is voluminous, exonerates the troops from the charge of having started these fires, as alleged in press dispatches.

It is said that the grass was fired by those who had put up large stacks of hay this summer, in order to sell their hay at high prices this winter when homesteaders would be compelled to buy hay to feed their stock, the grass having been burned off.

It is also reported that the grass was probably set on fire by "sooners" entering from Osage County, to discourage and retard movement from the Kansas line, and by people who wanted to find corner stones without trouble. The grass was very high and in many cases hid the stones.

The facts show that very strong hot winds were blowing for several weeks; water was very scarce and much of it bad or salty. The air was constantly filled with black dust and as hot as though it came from a furnace. No rain had fallen for over four months; all vegetation dried up, so that a spark falling on the grass would soon set it on fire.

The position of the troops before the opening of the Cherokee Strip was necessarily very trying, and no doubt there was some ill will on the part of the rougher element on account of their not being able to get into the Strip before the proper time. Probably some may have succeeded in getting through the line at night, but not very many; they are generally known and their claims will be contested by the law-abiding homesteaders.

Were it not for the presence of the troops before the opening of the Strip, the entire country would have been filled with "sooners." It would have been impossible to keep the Strip clear of intruders without the aid of the military, notwithstanding all reports to the contrary.

The opening of strips in the Indian Territory has usually been attended with more or less complaint on the part of disappointed people and "sooners," but the troops, no matter how well they performed their part in support of the civil authorities, have always been unjustly criticised.

Rumors, when once started, soon become distorted and magnified, so that little or no confidence can be placed in them. People will sometimes make rash statements, particularly while chafing under pique or

disappointment, which they are not willing in their cooler senses to verify by affidavit.

Only one man was shot and killed by a United States soldier; all other shooting and killing had been done by citizen contestants on account of claims or town lots. It is not unusual to see two persons on a quarter section or town lot.

Enough people made the race to take possession of every one of the homesteads and to give every county seat and town site at least 1,500 inhabitants.

It is estimated that 100,000 people entered the Cherokee Strip on the 16th of September. It is known that over 100,000 people were registered at the booths, but many of the prospective settlers took both homestead and town-site certificates, so the number of certificates does not represent the number of actual settlers.

It is estimated that 30,000 people made the race from Arkansas City; 15,000 from Caldwell; 15,000 from Orlando; 10,000 from Hennessey; 7,000 from Stillwater; 10,000 from Kiowa; 10,000 from Hunnewell, and 5,000 from other points. The total number was nearly double the crowd which went into Oklahoma when that country was opened.

Many of the horses ridden by homesteaders on the day of opening had been trained for weeks to make the race. The run from Chakaska Creek, a distance of 17 miles, was made by several people in fifty-five minutes, which gives an idea of the speed and endurance of the horses used for that purpose.

Accompanying are photographs which show booth near Arkansas City on September 15 and line before the start, the break, and the race on September 16. (Exhibit 118.)*

Attention is invited to accompanying map of the Cherokee Strip, and copies of letters and telegrams sent to and received by Col. Parker relative to its opening. (Exhibits 119 and 120.)

Capt. J. M. Lee, Ninth Infantry, assistant to inspector-general Department of the Missouri, has assisted me in the prosecution of this investigation. Special attention is invited to accompanying letter (Exhibit 117) addressed to him by ex-Governor Swineford, who was in charge of the opening as a representative of the Interior Department and is conversant with what was done by the troops.

Very respectfully,

E. M. Heyl,
Colonel, Inspector-General.

The Assistant Adjutant-General,
Department of the Missouri.

1.

Fort Riley, Kans., *October 11, 1893.*

Capt. J. M. Lee,
Ninth Infantry, Assistant Inspector-General:

Sir: I have the honor to acknowledge the receipt of your letter requesting me to give a detailed statement of any evidence which may have come under my observation bearing upon the following charges against the United States troops on duty in the Cherokee Strip in connection with the opening of the said Strip, viz:

(1) That J. R. Hill, of Keansburg, N. J., was killed by a soldier.

(2) That witnesses declare that more than one shot was fired by the soldiers.

(3) That two, instead of one, man were killed by soldiers when the north line moved.

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* Retained in War Department, A. G. O.

(4) That a body discovered September 17, several miles south of the border, is that of another man shot by the troops.

(5) That September 17, at a point about a mile this side of the line, in the State of Kansas, a boy riding a horse toward the Strip was stopped by several men who claimed the horse was stolen, that a soldier interfered, telling the boy to ride on, at the same time drawing his revolver; that the crowd was awed, but that the trooper, plainly under the influence of drink, fired three shots into the horse.

(6) That soldiers received bribes from "sooners," and were guilty of cruelty and drunkenness.

(7) That settlers have fallen victims of prairie fires.

Also answers to the following questions, viz:

(1) Where was your command stationed?

(2) District assigned to you?

(3) Was your district clear of "sooners" at the time of opening of Strip?

(4) Were homesteaders orderly and well-behaved before and at the time of opening of Strip, September 16, at 12 o'clock noon, or was force required to keep them in check?

(5) What were your instructions and what orders did you give noncommissioned officers and men on duty in reference to homesteaders going into the Strip before the proper time?

(6) Were you authorized to make arrests for lawlessness on Strip or border, or was authority to make such arrests solely within the power of United States marshals?

In making report requested I shall first deal with the questions and then the charges, and then give a detailed statement to show the exact conditions existing from the time of the arrival of my troop in the Strip until it was relieved, also the duties performed by the troops during the same period.

TAKING THE QUESTIONS IN ORDER.

1. Where was your command stationed?

It was camped at a spring on the site of old Camp Schofield, about 1½ miles east of the Chilocco reservation and three-fourths mile south of the Kansas State line, therefore about 5½ miles from Arkansas City, Kans. (See copy of letter indicating station hereto appended, marked A.)

2. What was the district assigned you?

The eastern half of the section bounded on the north by the State of Kansas, on the east by the Arkansas River, on the south by an east and west line through the southern boundary of the Ponca Reservation, and on the west by the Rock Island Railroad. (See copy of instructions hereto appended, marked A.)

3. Was your district clear of "sooners" at the time of the opening of the Strip?

To my personal knowledge there were none, and I think there were a very few previous to the night of September 15 and 16, because there were but few places that water could be obtained, and these places and their vicinity were thoroughly scouted and watched. But I have no doubt that during the night of September 15 and the morning of the 16th there were many who came into the Strip from the Kaw, Osage, and Ponca reservations.

It was simply impossible, with the limited number of men under my command, to properly patrol the border of my district. I had 40 men for duty, including myself, on the night of the 15th.

A reference to the map of the Cherokee Strip will show that the length of the line which it was necessary to patrol in my district was nearly 70 miles—on the north 15 miles along the Kansas line, about 32 miles on the east, following the bends of the Arkansas River, 12 miles along the northern boundary of the Ponca Reservation, and 12 miles along the western boundary of the same reservation.

The night of September 15 was very dark, and it was the easiest possible thing for a mounted man to pass through the lines without being seen, even along the north line of the Strip, where most of my men were stationed.

From interviews with people who made the run on September 16, I am convinced that there were many "sooners" in the Strip at 12 o'clock noon September 16, and that many more ran from the Indian reservations on the east.

(4) Were homesteaders orderly and well behaved before and at the time of opening of the Strip September 16, at 12 o'clock noon, or was force required to keep them in good order?

The majority of homesteaders were orderly law-abiding people, and only wished and asked for fair treatment, but there was the usual assemblage of bad characters and unscrupulous men who would hesitate at nothing to accomplish their ends, and these men are the ones who have furnished the "sooners" and caused most of the trouble in connection with the opening of the Cherokee Strip.

These men could only be kept orderly by a display of force, and on one or two occasions by the actual use of force, as was shown by circumstances arising at the registration booth near Arkansas City. The booth was composed of three separate

tents surrounded by a barbed wire with a gate for each tent, so that the people passed in on one side and out on the other.

Monday morning, September 10, the registration booth opened at 6.30 a. m. and registration began. As early as the Saturday afternoon previous people began to form in line to get to the booths, and by Sunday night there were several thousand people formed in three lines, one coming from the east and two from the west, corresponding to the three entrance gates of the booth.

I had been directed to send a suitable detachment to guard the booth (see copy of order hereto appended marked B), and on the morning of September 16, First Sergeant Murphy and 6 men were on guard there with orders to guard Government property and keep the peace as far as possible.

I arrived at the booth at 7 o'clock a. m. and found a crowd of not less than 10,000 people, the majority armed, assembled there, and everything in confusion because several hundred people had come there that morning and crowded in around the booth and at the head of the lines formed.

These late comers were being registered the same as those who had been in line for twenty-four and thirty-six hours, and I immediately tried to straighten things out. These people who had been lying out in the dust and wind for many hours would come to me and protest against such unfairness and say that, while they wanted to be law-abiding, they would fight for their rights if necessary.

I assured them that they should receive fair treatment, sent for 10 more of my men, cut out the lines that had been formed that morning, and made every one fall in one of the three long lines to take their turn.

I was unable to find a single civil official who had any authority in the Cherokee Strip, other than 6 clerks in the land office and had it not been for the troops, there would, without doubt, have been a riot and bloodshed that day.

On this day force had to be used, but it was not necessary to go to extremes. On another day, however, a man drew a pistol upon one of my men while he was on guard along the fence of the Chilocco reservation and was knocked down with a carbine. On still another day, a man drew a knife and rushed at one of my men while on duty along the line near the booth and was knocked down with a carbine.

I investigated both these cases and in each found many witnesses in the crowd who testified to the facts as stated and that the soldiers did no more than their duty.

The first man was taken away and I did not see him, but the second man I myself turned over to the sheriff of Cowley County, Kans., though I believe the offense was committed inside the Strip line.

There were numerous other cases where it was necessary to threaten to use force previous to the opening. The copy hereto appended, marked C, of a telegram from Lieut. Col. Parker, shows that the troops were expected to take charge of the lines as well as guard the booths.

On the day of the opening, as far as my personal observation went, everyone was orderly and well behaved except in one instance, where I had to interfere between two intending settlers who, one with a Winchester and the other with a revolver, were threatening to shoot each other.

(5) *What were your instructions and what orders did you give noncommissioned officers and men on duty in reference to homesteaders going into the Strip before the proper time?*

My instructions were contained in letters from Lieut. Col. Parker, commanding troops in the Strip, dated Fort Supply, Ind. T., August 28, 1893; Fort Supply, Ind. T., September 5, 1893; Fort Supply, Ind. T., September 11, 1893, hereto appended, marked A, D, E, and telegrams from Lieut. Col. Parker at Fort Supply, Ind. T., dated September 3, September 6, September 8, September 12, September 13, hereto appended, marked B, F, G, H, I, C, J.

My orders to the noncommissioned officers and men on duty, based on these instructions, previous to the opening, were that they were to treat all the people as courteously as possible; that the only persons authorized to be in the Strip were those with permits from Mr. N. P. Swineford or Mr. Emmitt Womack; that they were to prevent all unauthorized persons from entering the strip; that they were to take the names and description and address of all unauthorized persons found in the Strip, and to conduct them to the border and see that they got off the Strip; that they were not to use force unless obliged to, and not to shoot unless to protect life, and that they were to report everything unusual to me at once.

For the day of the opening, September 16, my orders to the noncommissioned officers, given the night previous, were that they were to proceed to their assigned stations on the line with their squads, station their men at intervals along the line, placing them in front of the greatest crowd, and to have them patrol back and forth along the line so as to have one man's post connect with that of the man next to him; that the men were to explain to the people that the signal was to be a discharge of shots along the line by the soldiers at 12 o'clock noon, standard time—(I had the squad leaders set their watches with mine; those sqnad leaders who had no watches were to obtain them from some of the spectators, which they did)—that in case one

or two or three men tried to break away before 12 o'clock they were to make every effort to stop them, and, if it became absolutely necessary, to shoot, but that in case any large number started, so that it would be evident the line could not be controlled, to give the signal and let the whole line go. The people who made the run in my district were in what was practically three distinct lines because of the Chilocco school reservation.

The Chilocco school reservation lies along the Kansas State line, and is 4½ miles east and west by 3 miles north and south, and is surrounded by a wire fence.

The people who made the run were assembled along the Kansas State line west of the Chilocco reservation, along the south line of the reservation, and along the Kansas State line east of the reservation, so that those along the south line of the Chilocco reservation were 3 miles south of those along the Kansas line. Sergt. Samuel Ihling was to have given the signal for the west line to move, I gave the signal for the line south of the reservation, and Sergt. Edward Murphy for the east line.

The only orders I received on the subject were to have the signal given at 12 o'clock noon, September 16, by shots all along the line. (See copy of order hereto appended marked E.)

It has been charged that it was illegal for people to have started from the south line of the Chilocco reservation. I allowed people to start from there simply in accordance with instructions. (See copy hereto appended marked H.)

My commanding officer, Lieut. Col. Parker, was on the Chilocco school reservation at the time the line started, and I had explained to him, the night of the 15th of September, how the lines would be formed and how my men would be posted.

(6) *Were you authorized to make arrests for lawlessness in Strip or on border, or was authority to make such arrests solely within the power of United States marshals?*

I had no direct, but did have implied, authority to make such arrests. I was ordered to preserve the peace, protect Government property, the United States mails, and guard the people from lawlessness and disorder, to use every effort to promote peace, to execute the laws, to exercise forbearance by every proper measure before resorting to force, to avoid conflict and prevent difficulties between settlers. Also to preserve status peaceably established by actual settlers and not to permit it to be disturbed by force or violence.

If deputy marshals or marshals were present, they were to be called upon to make arrests, at the demand of the military, in case of disturbance, and the latter were to act in entire harmony with the accredited agents of the Interior Department. (See copy of instructions hereto appended marked D.)

About the 8th ultimo I went to Arkansas City to confer with the United States and county officials of Cowley County, Kans., as the registration booth was right at the north line of the Strip, and the crowd would necessarily be both in Kansas and the Strip.

I saw Mr. Bonsall, the United States Commissioner, and also Justice of the Peace and Deputy United States Marshal Rarrick, and requested them to take steps to preserve order on the Kansas side.

This they promised to do, and I mentioned the fact that there were no United States marshals on the Strip and that I was going to communicate with the United States marshal at Guthrie, Okla., and ask that deputy United States marshals be sent to aid in preserving peace and to make arrests in the Strip in my district. Mr. Bonsall said that he would himself telegraph Mr. Mix, the United States marshal at Guthrie, and make that request. On October 5 Mr. Bonsall stated to me that he did telegraph the United States marshal at Guthrie, but received no reply.

No United States marshals came until the night of the 14th ultimo, when Deputy United States Marshal Reynolds came to me at the registration booth and said that he had been ordered there to take charge of the train, and had commissions for twenty deputies whom he was going to swear in as soon as possible.

He told me that the United States marshal, Mix, was authorized to swear in one hundred and twenty deputies for service, and I suggested that, as the crowd was so great at Arkansas City, that there ought to be at least forty at that point, so that twenty of them could take charge of the trains and the remainder be distributed along the line on the day of the opening, to assist in preserving the peace, etc. He agreed with me and said he would go and at once telegraph the United States marshal, Mix, for twenty more commissions.

I did not see him again, except on the first train that went in over the Santa Fe Railroad on the day of the opening. There were no deputy United States marshals on the line on the morning of the 16th of September, or if they were they did not make themselves known, so that, in case of disturbance, it was impossible to call upon United States marshals to make arrests. But Mr. Bonsall, the United States commissioner in Arkansas City, stated to me on October 5 that these deputy United States marshals, who had no authority in Kansas, were kept on guard over the property of the Santa Fe Railroad in Arkansas City, Kans., on September 15 and 16 until 12 o'clock noon.

Now, taking the charges against the troops on duty in the Cherokee Strip:

(*1*) *That J. R. Hill, of Keansburg, N. J., was killed by a soldier.*

On the afternoon of September 16, after the opening, Sergt. William R. Willard reported to me that the portion of the line near where he was on guard had broken away about eight or ten minutes before 12 o'clock, and that in trying to prevent the break he had killed a man.

I took down Sergt. Willard's statement and also that of Private Claes Hallencreutz of my troop, who saw the whole affair.

Both statements agreed in all essential points and were embodied in my report to Lieut. Col. Parker, commanding the troops in the Strip. (Copy hereto appended marked K.)

I talked with a number of civilians and their statements agreed with that of Sergt. Willard, in that the man J. R. Hill started before 12 o'clock; that the soldiers fired a number of shots in the air before firing at anyone; that J. R. Hill, the man killed, was repeatedly called upon to halt and did not obey, but did differ as to whether there were others ahead of him when shot, and as to a shot being fired by some one in the line, thereby causing the break.

Mr. Shiffbauer told me that one man who was behind Mr. Hill and saw the shooting said that the soldiers at first held their pieces with muzzle pointing upward when firing. (See copy of certificate hereto appended marked L.)

A man whose name I do not know, and whom I have been unable to find, stated to me that he had camped with Hill for two months, and was about 400 yards behind Hill when he was killed, and that Hill was much excited and rushed out of the line two or three times with two flags in his hand and was ordered back.

(*2*) *That witnesses declare that more than one shot was fired by soldiers.*

Reports of both soldiers and civilians agree upon this point—there were several shots fired.

(*3*) *That 2, instead of 1 man, were killed by soldiers when the north line moved.*

If there were, it was not reported to me, nor did I hear of it in Arkansas City.

(*4*) *That the body discovered September 17, several miles south of the border, is that of another man shot by the troops.*

On September 18, in Arkansas City, Mr. Richardson, of the Kansas City Star, told me that the body of a man shot through the groin had been found on the Shakaska Creek, and that several people said that they had seen the man shot at the time J. R. Hill was shot, though he did not fall from his horse and still continued the run.

The place where this body was found was about 12 miles from the north line, I was told, and there were several dead men found. On the morning of September 17 I was told by the news agent of the Kansas City Times that he saw the dead body of a man shot through the head lying out on the prairie near Kildare, about 12 miles south of the line on the Santa Fé Railroad, and there were reports of conflicts with sooners in the Shakaska region where this body was found.

I doubted the evidence of any one who, in all the dust and excitement, claimed to have been able to see the man hit by a bullet, though he did not fall from his horse, which was at a full gallop; and refused to believe he had been shot by the troops, any more than had others whose bodies were found.

(*5*) *That September 17, at a point about a mile this side of the line in the State of Kansas, a boy riding a horse toward the Strip was stopped by several men who claimed that the horse was stolen; that a soldier interfered, telling the boy to ride on, at the same time drawing his revolver; that the crowd was awed by the trooper, plainly under the influence of drink, firing three shots into the horse.*

I regret to state that this charge is without doubt true.

The man, Trumpeter Herman Steckert, Troop C, Third Cavalry, had been sent to Arkansas City for a doctor to attend a wounded man of the troop and was absent some four hours more than he should have been.

On his return, late in the afternoon, he reported the above occurrence to me; the man was plainly drunk, and I could not believe that his story could be true, so waited to learn something more.

On the following morning, Mr. E. N. Smith, of Eldorado, who claimed to be the owner of the horse, came into my camp and complained that his horse had been killed by a soldier, and giving circumstances and names of witnesses. I called Trumpeter Steckert and he acknowledged the offense, and I immediately placed him under guard.

I told Mr. Smith I would do just as he wished; I would turn the man over to the civil authorities of Kansas or have him tried by court-martial. Mr. Smith said he would find out what the punishment under the civil law was and let me know. He wrote me a letter (copy appended marked M) stating that he would rather trust to a court-martial.

Trumpeter Steckert is now in the guardhouse at Fort Riley, and charges have been preferred and forwarded charging him with killing a horse and threatening civilians of Eldorado, Kans.

(6) *That soldiers received bribes from sooners and were guilty of cruelty and drunkenness.*

That soldiers received bribes from sooners—I was at the booth in person almost constantly from the morning of September 10 until the night of September 15.

It was reported, and complaints by people in line at the booth were frequently made to me, that the soldiers were being bribed to let men in, or at least that they let men in out of their proper turn.

I know that some of my men were approached with offers of money to allow persons to register out of their turn, for I asked them myself, and they answered that they had.

In every case where a man complained to me that people were being brought into the booths out of turn, I at once asked to have the person pointed out, and in several cases found men who had gained entrance by representing themselves as deputy marshals, deputy sheriffs, etc., on duty, and promptly put them out, in two cases tearing up the certificates they had already received when I found them.

Whenever a man complained to me that my men were being bought up, I always asked him to show me any man who had allowed any one to enter the booth out of turn or had received money to allow anyone to do so, but in no case was a single complainant able to point out any soldier.

In one case a man came to me and said he knew one of the soldiers who had received money and allowed "sooners" in; I took the man with me and showed him every man there on duty at the booth; and he could not identify the soldier, and said he must have left. On another occasion, a man said he knew two men who had bought their way in at $2.50 each; I told him that was no proof, and asked him to bring the men to me so that they might identify the soldiers who allowed them in; he said that they were then in Arkansas City, and asked if I would accept affidavits; I told him I would, but the affidavits never made their appearance.

On another occasion, on the night of September 14, about 12 p. m., several people complained that a soldier had just allowed a "sooner" in; I called every man up in line in the light before them, and asked any one to identify the soldier, which no one was able to do.

Many of these complaints about "sooners" being allowed in the booths by soldiers arose from the fact that the people in line did not know the registering clerks, mail carriers, and others whose duties necessitated entering and leaving the booths.

From my personal experience I know that bribery was frequently attempted, because if I refused one I refused fifty offers of money by gamblers who wished to run games on the strip, by people who wished to register without falling in line, and by people who wished to enter the strip before 12 o'clock noon and not be disturbed by the troops. These offers of money ranged all the way from $100 by the gambler to $5 by the people who wished to register.

One settler, Mr. Hilligoss, of Santa Fe, Okla., told me that he was one of a party who had made a pool of $100, and that they offered this amount to a sergeant of my troop to allow them to enter the strip on the night of September 15; that the sergeant refused, and talked to them and reasoned with them, so that he gave up any idea of "soonering" it and made the run according to law. I know that he made the run, for he started not 20 feet away from me at 12 o'clock noon September 16. He said the remainder of the party turned back, but decided to try and slip through the line, but could not say whether they succeeded or not, as he had not seen any of them since.

(*b*) *Charge of cruelty.*

If any of the men were guilty of any act of cruelty it was not reported to me, and I knew nothing of it except in the case of the man who killed the horse of Mr. E. N. Smith.

And any act of cruelty was contrary to orders, as my orders were to treat every one with courtesy as far as possible.

(*c*) *Charge of drunkenness.*

I regret to say that there were nine cases of drunkenness that came to my notice while the troop was on duty in the Cherokee Strip.

Of these cases three were of men who were on duty in detached camp and went to Arkansas City without my knowledge; three were of men who became intoxicated at the booth one night while I was in my camp; one, of a man who had been sent to Arkansas City for a surgeon and became intoxicated there, while but two cases occurred while I was present in person.

But all cases of drunkenness at the booths was due to the fact that just inside the Kansas State line and not 100 yards from the booths were three saloons, running, I believe, contrary to the laws of the State of Kansas, and without a United States license, and that many people in the crowd in order to stand in with the soldiers would treat them to liquor whenever my back was turned.

I made every effort to suppress drunkenness both in the crowd and among my men. I asked the sheriff of Cowley County to close the saloons; he said he would if I said so, but it was not done.

Deputy Constable Crowley, of Arkansas City, with several other deputy constables, came to me with a note from Mr. Bonsall of Arkansas City, justice of the peace, which stated that the constables were to act in conjunction with my troop to preserve the peace, etc. Mr. Bonsall had assured me that he would aid in closing saloons, so I requested the constables to close them; it was not done. Mr. Schiffbauer, of Arkansas City, came to me and told me I had no authority to order these saloons closed. I told him I knew it, but had been assured by the United States Commissioner Bonsall, Deputy United States Marshal Rarrick and Mr. Theophilus, assistant district attorney, I believe, that those saloons should be closed. I then requested the saloon keepers to sell no liquor to any soldiers, and they promised not to do so, and I believe kept their promise, but of course they could not prevent people from bringing liquor outside to my men.

Some of my men took advantage of the fact that I could not keep them in confinement as I could not spare them and a guard, for I needed every man for duty either at the booth or in the Strip.

One of my men even resisted arrest by me, and I was obliged to knock him down to make him submit. All of these men are now under charges for trial by court-martial.

(7) *That settlers have fallen victims to prairie fires.*

To my personal knowledge no settlers have been burned to death, but I saw newspaper reports of several deaths by fire.

On my first scout I went over all of the district assigned to me to guard and found that a large portion of it had been burned over, and also saw two or three prairie fires then burning.

On all scouts made by my troop or detachments of it prairie fires were seen, and for two or three days before the opening prairie fires were burning in various portions of my district, but principally west of the Santa Fe Railroad.

On the day of the opening, I myself saw a prairie fire sweeping up to the north just east of the Santa Fe Railroad; this fire could not have been started by soldiers, as not one was in the region where the fire started.

In connection with the matter of soldiers receiving bribes I wish to say further that after these reports were made to me I placed two noncommissioned officers whom I could trust, with orders to keep watch over the men on guard at the booth without appearing to do so and see if they could detect any evidence of bribes being taken by the men on guard. I also kept close watch, keeping out of sight, but could not detect any soldier allowing a man in out of his turn.

While in Arkansas City on September* 5, 6, and 7 I found men who swore that they bribed soldiers, but I also found some who had attempted bribery and failed.

Very respectfully, your obedient servant,

F. M. CALDWELL,
Second Lieutenant Third Cavalry.

A.

FORT SUPPLY, IND. T., August 28, 1893.

To the Commanding Officer Troop C, Third Cavalry,
Chilocco, Ind. T.:

SIR: Pursuant to telegraphic instructions from headquarters Department of the Missouri, by which the troops charged with the duty of clearing the Cherokee Strip of intruders (previous to the opening of the same to settlement on the 16th proximo) are placed under my command, you will observe the following:

You will remove promptly and absolutely all unauthorized persons, as well as cattle found, from the district hereby assigned you to patrol, *i. e.*, the eastern half of that portion of the strip bounded on the east by the Arkansas River; on the west by the Rock Island Railroad; on the south by a line running east and west through the southern boundary of the Ponca Reservation, and on the north, of course, by the northern boundary of the Strip. Troop B, Third Cavalry, will have the district south of you, and Troop E that west of you.

You will, in accordance with instructions of the Acting Secretary of War, coöperate with the agents of the Interior Department.

Permits issued by Inspector N. P. Swineford to enter the Strip will be recognized by you. As far as practicable keep up communication with the troops to the south and west of you.

Take the names, addresses, and personal description of all intruders found and forward a duplicate of the same to this office.

---

* Must mean October.—J. M. LEE.

For telegraph, rail, and supply facilities establish a camp at Chilocco.

By the terms of the President's proclamation a strip of land 100 feet in width, around and immediately within the outer boundaries of the entire tract of country to be opened to settlement, is temporarily set apart for occupancy in advance of the hour and day named for the opening of said country.

Very respectfully, yours,

D. PARKER,
Lieutenant-Colonel Thirteenth Infantry.

A true copy.

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

B

[Telegram.]

FORT SUPPLY, IND., T., *September 3d, 1893.*

Commanding Officer Troop C, Third Cavalry, Camp at Chilocco, via Arkansas City, Kans.:

Send suitable detail to booth at Chilocco to guard it from time of its erection. Work begins Monday next. Acknowledge receipt.

PARKER,
Commanding.

Official:

J. C. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

C.

[Telegram.]

FORT SUPPLY, IND. T., *September 13, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.:

The following is repeated for your information:

"Guthrie, Okla., September 13. Parker, commanding Fort Supply, Ind. T.: Complaints come in large number; professional repeaters in line at booths retarding registration. As fast as they sell out take places again and repeat operation."

As far as practicable endeavor to prevent this if attempt be made at booth under your charge.

PARKER,
Commanding.

Official:

J. C. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

D.

FORT SUPPLY, IND. T., *September 5, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.:

SIR: I inclose herewith certain memoranda for your information and guidance. Please acknowledge receipt by telegram mentioning "subject." Instructions regarding distribution of troops on the day of

opening, etc., will be sent you (by mail if time permits, otherwise by telegraph) as soon as the necessary arrangements can be made with the special agent of the Interior Department.

When the day of opening is nigh at hand, you will please make such disposition of your command as will effect its speedy concentration at or near the point or points in your district where the runs are expected to be made (leaving, however, the detachments at the booths until further orders) on the day of the opening, and you will please also at the same time be personally either at your telegraph station (Arkansas City, Kans.), or near to, in order that orders sent you be promptly received.

Very respectfully, your obedient servant,

D. PARKER,
Lieut. Colonel Thirteenth Infantry, Commanding.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

MEMORANDA.

Concerning existing orders and regulations governing the use of troops under paragraph 583, Army Regulations, or such parts thereof as are applicable to cases that might arise just previous to or at the opening of the Cherokee Strip.

(1) Attention is invited to paragraphs 583, 584, and 585, Army Regulations, and particularly to sections 5297 to 5300, inclusive, Revised Statutes.

(2) The troops are primarily collected at such points as may be designated for the purpose of preserving peace, of protecting Government property, United States mails, and guarding the people from lawlessness and disorder. They should use every effort to preserve peace, to execute the laws, to exercise forbearance by every proper measure before resorting to force, to avoid conflict, and prevent difficulties between settlers. Also to preserve status peaceably established by actual settlers, and not to permit it to be disturbed by force or violence. If marshals or deputy United States marshals or both are present they should be called upon to make arrests at the demand of the military in case of disturbance, and the latter should act with entire harmony with the accredited agents of the Interior Department.

In case of disturbance threatening riots or bloodshed, or both, the officer in command reports the facts to the President through the Adjutant-General of the Army, and awaits orders. Where, however, the emergency is great (which would probably be the case if one occurred at all), such as a sudden insurrection or riot endangering United States property, or in other like cases, the officers of the Army may, if they think the necessity exists, take such action before the receipt of instructions as the circumstances and the law under which they are acting may justify, reporting the same immediately thereafter to the President through the Adjutant-General of the Army.

With regard to contests between settlers and others over lots, claims, and town sites, troops may be used simply to preserve peace, but all claims must be settled according to law, and all property interests must be decided by the Interior Department and the courts.

Official copy respectfully furnished commanding officer Troop C, for his information and guidance.

D. PARKER,
Lieutenant-Colonel Thirteenth Infantry, Commanding.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

E.

FORT SUPPLY, IND. T., *September 11, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, Ind. T.:

SIR: You will please make such disposition of the troop under your command as will insure its being stationed on the 16th instant (the day of the opening) along the northern boundary of the Cherokee Strip within the district assigned you to patrol.

Early on the morning of that day send small patrols to scout the boundary as far as Hunnewell. Two small patrol parties (or more if you can spare them) working toward each other from Hunnewell and Chilocco, would be a good disposition. The bulk of your command to be at and near Chilocco, covering the people congregated to make the run. These remarks are intended as general expressions as to what is desired, rather than orders that are to be taken literally; and, knowing yourself the requirements, you, being on the spot, can modify them to suit the circumstances, keeping these requirements in mind, *i. e.*, to exclude intruders, preserve the peace, guard United States property, and carry out other instructions previously given you.

With regard to the signal to be given at the hour appointed by the President for the opening, arrange matters so that precisely at that time shots be fired simultaneously along the line under your personal supervision.

As the commanding officer Troop E, Third Cavalry, will have two booths under his charge on the day of opening, you will send as strong a detachment as you can spare to report to him for duty on the evening of the 15th instant, or early on the morning of the 16th; communicate with him and arrange matters between yourselves.

Please acknowledge receipt of this communication.

Very respectfully,

D. PARKER,
Lieutenant-Colonel Thirteenth Infantry, Commanding.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

F.

[Telegram.]

FORT SUPPLY, IND. T., *September 3, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.

Recognize permits to enter Cherokee Strip signed by special Agent Emmitt Womack, Interior Department.

Acknowledge receipt.

PARKER,
Commanding.

Official:

J. T. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

G.

[Telegram.]

FORT SUPPLY, IND. T., *September 6, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocoo, Ind. T., via Arkansas City, Kans.:

Replying to your letter of the first instant, the decision of Commissioner Lamoreux is that the hundred feet can not be laid off on the east side and the run made from that side without interfering with Indian reservations and Indian allotments. The run therefore should not be made from the east side of the outlet. As I understand it people are not to be allowed to congregate on the Chilocco, or any other Indian reservation. This is also Special Agent Womack's view of the matter.

PARKER,
Commanding.

Official:

J. T. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy.

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

H.

[Telegram.]

FORT SUPPLY, IND. T., *September 8, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.:

The following telegram is repeated for your information and guidance:

"GUTHRIE, OKLA., *September 8, 1893.*

"Lieut. Col. PARKER,
"*Commanding Troops in Cherokee Strip, Fort Supply, Ind. T.:*

"I am instructed by Commissioner Lamoreux, to give notice that persons will be allowed to occupy 100 feet strip around Chilocco Reservation. Of course persons will not be allowed on the reservation itself.

"EMMITT WOMACK,
"*Special Agent.*"
PARKER, *Commanding.*

Official:

J. C. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

I.

FORT SUPPLY, IND. T., *September 12, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.:

SIR: As soon after the opening on the 16th instant as you deem judicious (that is, when matters quiet down and you find that it is not necessary to go elsewhere in your district), you will go into camp at the booth assigned you to guard, and remain there until further orders, joining the detail of your troop already there.

I will state for your information that four infantry companies have been ordered to the land offices, one to be stationed at each one, viz, Alva, Woodward, Enid, and Perry.

Please acknowledge the receipt of this by telegraph.

D. PARKER,
Lieutenant-Colonel Thirteenth Infantry, Commanding.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

J.

[Telegram.]

FORT SUPPLY, IND. T., *September 13, 1893.*

Commanding Officer Troop C, Third Cavalry,
Camp at Chilocco, via Arkansas City, Kans.:

On day of opening send small detachment under charge of a reliable noncommissioned officer to point where railroad crosses the Strip line near Arkansas City, Kans., with instructions to carry out Secretary of Interior's order published in newspapers of the 12th instant.

Acknowledge receipt.

PARKER, *Commanding.*

Official:

J. C. FOX,
Second Lieutenant, Thirteenth Infantry, Post Adjutant.

A true copy:

J. F. BELL,
First Lieutenant and Adjutant Seventh Cavalry.

K.

CAMP NEAR CHILOCCO, IND. T., *September 18, 1893.*

Lieut. Col. D. PARKER,
Commanding troops in the Strip, Fort Supply, Okla.:

SIR: I have the honor to submit the following report of the events occurring in my territory on the day of the opening of the Strip:

My troop, C, was thus distributed on the morning of September 16:

Corporal Whitty and 4 men were along the north line of the Strip from the Arkansas River to a point 3 miles west; from this point to the eastern boundary of Chilocco Reservation the line was guarded by Sergt. E. Murphy and 4 men; along the southern boundary of Chilocco Reservation were First Sergt. Murphy and 9 men; I was at the point where the railroad crosses the southern boundary of reservation; west of the Chilocco Reservation, as far as Bitter Creek, the line was guarded by 10 men under charge of Sergts. Ihling and Willard; Sergt. Schivene and 4 men were sent down the west bank of the Arkansas River to keep people from running from the Osage Reservation.

East of the Chilocco Reservation and along the southern boundary of it the crowd was orderly and no break was made until the signal was given at 12 o'clock. West of the reservation the crowd broke away about ten minutes before 12 o'clock. Sergt. Ihling reports that some one fired a pistol in the crowd at that time which caused the break.

Sergt. Willard reports that he heard no shot, but saw a bunch of about 30 horsemen break away near him, and that he and another man, Private Hallencreutz, started to head them off, calling on them to halt and firing their pieces in the air; that there were two men some distance ahead of all the others; that he repeatedly called upon these men to halt; that one replied that no one should stop him, or words to that effect; that he fired two shots near him, but that he still continued to ride at full speed; that then he, Sergt. Willard, dismounted, and when the man was 300 or 400 yards ahead of him, fired one shot at this man and saw him fall from his saddle; that he then saw the crowd which had at first started back coming and that they could not be held, so he let them go without any further effort to stop them; and that he had not the slightest idea of hitting the man, as the man was riding at full speed and so far away. It was afterwards reported to me that the man had been killed, and that he was a James Hill from New Jersey.

The orders given the men on the line that morning by me were, that if any one or two men tried to break away before the time, 12 o'clock, they were to make every effort to stop them, and if it became absolutely necessary, to shoot; but that in case a large number broke away so that it would be evident the line could not be controlled, the signal was to be given and the crowd allowed to go.

It seems that while it was very unfortunate this man should have been killed, Sergt. Willard was doing nothing more than his duty.

The orders under which we were acting were to the effect that all unauthorized persons were to be kept off the Strip absolutely until 12 o'clock, September 16, 1893, and that force was not to be used until absolutely necessary.

The foregoing seems to me such a case, and I shall refuse to deliver this man up except upon application of the United States civil authorities, as I am now camped on the school reservation at Chilocco, or upon an order from my commanding officer.

Very respectfully, your obedient servant,

F. M. CALDWELL,
Second Lieutenant, Third Cavalry.

L.

OFFICE OF C. SCHIFFBAUER & CO.,
FERD HEIM BREWING COMPANY,
Kildare, Okla., October 7, 1893.

I hereby certify that a man, a stranger to me, while here in Kildare, told me that he saw the shooting of J. R. Hill, and that the soldier who fired the shot fired two or three shots at first with the muzzle of his carbine pointing in the air before firing at or near the said Hill.

CHAS. SCHIFFBAUER.

M.

EL DORADO, KANS., *September 19, 1893.*

Lieut. CALDWELL.

DEAR SIR: On examining the statute I find that one year in county jail is the extent of punishment together with a fine. Now, your man can not pay a fine, if confined in jail, and that would in no way recompense me for my great loss. I wish you to have him court-martialed, and I will trust my Army friends to do justice to both so far as it is possible. I will appear as a witness whenever wanted, and can furnish other witnesses as to killing and value of the horse.

Thanking you for your kindness yesterday and hoping to hear from you soon, I am, very respectfully,

E. A. SMITH.

2.

ARKANSAS CITY, KANS., *October 4, 1893.*

Second Lieut. Frank M. Caldwell, Third Cavalry, being duly sworn according to law, states as follows:

My instructions were: In case any one or two men made a break into the Strip before the signal was given at 12 noon, September 16, 1893, the men were to make every effort to stop them, and, if absolutely necessary, to shoot. If a large number of people made a break so that it was evident that the line could not be continued, to give the signal and let the crowd go.

I gave permission for homesteaders to make the run from Chilocco. I received the following telegram authorizing the homesteaders to make the run from Chilocco:

"I am instructed by Commissioner Lamoreaux to give notice that persons will be allowed to occupy 100-foot strip around Chilocco reservation. Of course persons will not be allowed on reservation. Emmitt Womack, Special Agent."

I was on the south line of Chilocco at 12 noon, September 16, and gave the signal to go by firing my pistol.

No money was turned in for hay left at Cary or Government Spring.

The following men of Troop C, Third Cavalry, were arrested for disorderly conduct in Arkansas City: Sergt. Scherene; Privates A. Barbin and Joseph Belle Isle. Sergt. William R. Willard did the shooting that killed Hill. Trumpeter Herman Stechert shot and killed Smith's horse.

Note by Capt. Lee.—At Perry land office, October 5, 1893, I was informed and saw papers rejecting applications of John W. Switzer, of Arkansas City, Kans., and George O. Brewster, of Cleveland, Kans., on account of running from south side Chilocco school reservation—"sooners."

Also saw record rejecting Charles W. Surlock and Robert W. Tindall, of same place, for same reason.

3.

Sergt. Samuel Ihling, Troop C, Third Cavalry, stated under oath as follows in answer to interrogations:

1 Q. How long have you been in the service?—A. Nearly fourteen years.

2 Q. Were you on duty with your troop at the recent opening of the Cherokee Strip?—A. I was, from about the 1st of September until we returned, about the 28th.

3 Q. State fully the nature of your duties, the orders you received, and what occurred?—A. I was in charge of a detachment of four men to scout the Strip, keep out and put out all persons who had no authority there before the opening. I was assigned on the west end of the Chilocco school reservation and scouted west from there along the Kansas line up to Hunnewell, a distance of about 16 miles; I went up and back the same day repeatedly, sometimes not quite as far, as I would meet or hear of E Troop (Capt. Elting) detachments coming there. The people waiting to go in were camped along the Kansas line as far as I scouted. There were no registration booths between Chilocco and Hunnewell; there was one near Hunnewell. I did not go into Hunnewell. I saw people going to the booths at Hunnewell to register. Before the opening I drove out four or five families that were in the Strip; I took their description; they would not give their names. My orders were to keep out intruders and take their names and description and report. Had no trouble in putting them out nor in keeping others out; I simply ordered

and escorted them out to the line. All this duty was performed quietly and not necessary to use any severity; this continued until the day of the opening, when I had some little trouble. The trouble was, there was considerable confusion and annoyance in getting the people in line along the border, and they made a break from the west end of the schoolhouse probably seven or eight minutes before 12 o'clock; some citizen fired a shot and the line started to break from there, and the others seeing it broke also and carried along that way west. The line of citizens were instructed and clearly understood that the soldiers, 100 yards or so in front and about one-quarter of a mile apart, would fire the shots as a signal at 12 o'clock. I was next to the Kansas border near the west-end fence of the Chilocco school reservation when the break occurred; I tried to stop them, calling out and holding my pistol in the air and yelling out that there had been no signal given and for them to wait; from there west the whole line started and I saw it was no use to try to stop them and I let them go. I heard a shot (false alarm) fired; as it was faint, it was a considerable distance away.

My orders were not to allow any one to go in under any circumstances before the time. I understood that my orders would justify me in stopping by any necessary means any one who undertook to lead the crowd in violation of orders, even to the extent of firing on him if I could stop him in no other way, but as the whole crowd seemed to move at once I did not feel justified in firing.

I was not at the booth nor my detachment, and saw no drinking or drunkenness of any kind.

Shortly after we went there I noticed the prairies were on fire a considerable distance away, and one fire came up near the Chilocco schoolhouse. I do not know how these fires started. I heard a citizen say that a man having a considerable lot of hay (Blackwell by name) started the fire. I know that my detachment started no fires. We returned to camp every night, taking a lunch with us for the day. The people along the line waiting for the opening were orderly. Many, however, came on the day of the opening from Arkansas City. They had been staying there, owing to the scarcity of water and forage along the line.

I know of no soldier firing a shot on the day of the opening. I know nothing about the death of Hill. We came into camp that night after the opening. That night or the next morning I conversed with Sergt. Willard about the death of Hill. Sergt. Willard said, as I remember, that Hill was one of the leaders of the break; that he ordered him to halt and he did not do so; that he then fired a shot and he still didn't halt, and then he fired another shot, and, I think he said, the shot hit Hill.

I heard about the killing of a horse, but have no personal knowledge of the matter.

As far as I know there seemed to be no ill-feeling between citizens and soldiers, and everything seemed to be as quiet as could be expected in such a large crowd.

There was no bribery or offers to bribe made to me or to my men to my knowledge. In scouting the men were with me and were not in a position to receive any offers of that kind.

On the day of the opening there were vast crowds along the west end of the school reservation to Hunnewell; on the day of the opening many thousands, and I estimate there were from 40,000 to 50,000 people, including sightseers. Probably two-thirds of them were there to make a run for claims. I rode the line that morning 10 miles west and back before 12 o'clock. I was away from the troop until after the opening, and joined it that evening and remained with it, and saw no special cases of drunkness except one or two cases of men who staid overtime on pass. One of them is now in the guardhouse here. I had the time from a citizen, and all arranged to make the start at signal.

SAMUEL IHLING,
Sergeant, Troop C, Third Cavalry.

Sworn and subscribed to before me this 1st day of October, 1893, at Fort Riley, Kans.

J. M. LEE,
Captain Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

4.

Sergt. William R. Willard, Troop C, Third Cavalry, was informed by Capt. J. M. Lee that it was entirely optional with him whether he made any statement or not with regard to this matter. Sergt. Willard stated that he desired to state the matter fully; had nothing to conceal; that he was on duty and believed he was

carrying out his orders; and at his request was duly sworn by Capt. J. M. Lee, and stated as follows:

I was on duty on west side of the Chilocco Indian reservation on the morning of the opening, September 16, with Sergt. Ihling, Troop C, Third Cavalry, with orders to patrol that line and hold the crowd back until the signal was given; and they—all of the crowd—had fair warning, as Sergt. Ihling and I rode the line and told them how the signal would be given; and just before 10 minutes of 12 there were two men that started from the line mounted on a run, and after they gained a little distance a small bunch started to follow behind them. Private Hallencreutz, Troop C, Third Cavalry, tried to head them off, calling to the two men ahead to halt, and they paid no attention to the order. I yelled at the top of my voice and Hallencreutz, too. They heard us, easily, not over 150 yards away, and one of them, Hill, turned his head toward us in apparent response to the challenge. Their horses were running too fast for ours to overtake them; so we, Private Hallencreutz and I, commenced shooting over their heads, and Private Hallencreutz dismounted to fire, and I called to him as I went by on my horse to be sure and shoot high so as not to hit anybody. Between us and the two men there were no others; there may have been some to the right of us from the bunch that followed, and after going about 1,000 yards from the line I stopped my horse and challenged him for the last time. At that last challenge he was perhaps 200 yards ahead, and I fired to shoot over his head with a flat sight, and there were other reports of shots around at this time, whether from boomers or soldiers I do not know, as nearly all the boomers had Winchesters and six-shooters, and I fired lying down. I got on my feet and saw that the man had fallen. I thought at first that his horse had stumbled and thrown him, for I aimed over his head and had no intention of striking him, and looked back and saw the lines were broken, and let them go ahead as we could not stop them, and I rode back and reported to Lieut. Caldwell, Third Cavalry. When the two men first started from the line the small bunch that followed them was probably ten or twelve, mounted, and about 50 yards in rear. The general break in the line did not occur until shortly after this, possibly in one or two minutes. When the two men started I was back of the first line of wagons, probably 75 yards back from where the two men started. There was no noise or confusion at the time. Everything was quiet.

The crowd was notified at the time that five minutes before 12 the soldiers would be in front of the line about 100 yards and about 500 yards apart so the signal could be seen and heard along in front; when the two men made the break we were aligning the crowd along the starting line and getting everything in good shape. I heard no shot fired before these two men started; I heard a report afterwards that some one in the crowd had fired a shot at the time these men started; I was so near to where these two men started, that had a shot been fired I would certainly have heard it; from the circumstances it is my honest belief that the two men and the bunch that followed them deliberately started ahead of the time so as to get an advantage over the others.

Before the opening I had three men under my orders engaged in scouting and watching the roads into the Strip. Know nothing of bribery or attempt to bribe whatever.

There were prairie fires burning when we arrived there and continued nearly all the time we were there; we could see them nearly every night.

I know nothing about the report of drunkenness; there were no saloons where I was, and my men attended to their business.

WILLIAM R. WILLARD,
Sergeant, Troop C, Third Cavalry.

Sworn on October 1 and subscribed to on October 2, 1893, before me, at Fort Riley, Kans.

J. M. LEE.
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

On October 2, 1893, Sergt. Willard stated further: That he and Sergt. Ihling were to get the time from some disinterested party, and both were to fire the signal shots in front at noon—by that time. That he saw the party, a citizen, who was not to make the run, and they, Sergts. Willard and Ihling, had the time from him.

5.

Sergt. August Quell, Troop C, Third Cavalry, stated under oath as follows in answer to interrogations:

I was on duty with Troop C, Third Cavalry, at the opening of the Cherokee Strip. Most of the time I was in main camp and two days I was out patroling at the rail-

road crossing to keep wagons from going to the booths. I had three men with me. On the day of the opening I was on the southwest corner of the Chilocco school reservation. I had two men with me and had orders to keep people back until the signal from the first sergeant. My men were deployed in front about 15 yards and about 500 or 600 yards apart. I had no trouble in carrying out my orders; the crowd was quiet. About ten minutes after the signal Lieut. Col. Parker, Thirteenth Infantry, came there. After the rush I heard that a man had been shot.

There were prairie fires burning when we first went there; did not notice any on the 16th. I was on duty at the booth one afternoon and one night. I was on duty there to keep back the crowd and prevent people from running ahead of others; had no trouble. I had three mounted men with me that day and was out about 25 yards from the booth. Never heard of any cases of bribery at all.

As to drunkenness, probably some men went down in town and got drunk. I saw no drunkenness in camp or with men on duty. I talked to a good many citizens after the opening who were disgusted that so many "sooners" had gotten into the Strip, just general talk, without saying whose fault it was.

AUGUST QUELL,
Sergeant, Troop C, Third Cavalry.

Sworn and subscribed to before me, at Fort Riley, Kans., this 1st day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

6.

Corpl. Mert J. Whitty, Troop C, Third Cavalry, stated under oath as follows:

I was on duty with the troop at the opening of the Strip; I was on duty at the booths at Chilocco, most of the time on the outside, mounted, assisting in keeping the lines in order with the other soldiers; I was there until the night before the day of the opening, when I was sent out in charge of a detachment. While there everything was quiet and orderly. On the day of the opening I had 4 men on the line east of the booth. My orders were to patrol the line and keep off intruders, keep the crowd back until 12 o'clock, when my men would be stationed along the front to pass the signal by firing shots. I received all my orders from Lieut. Caldwell, Third Cavalry; had no tronble to carry out my orders; the crowd was orderly and quiet, and remained so until the signal was given, when they came in; there were several thousands along there; there was some talk of a break where I was, but I checked it without trouble.

Heard of no bribery of anybody. When we first went there I noticed there were prairie fires burning in the distance. On the day of the opening, shortly before 12 o'clock, I noticed what appeared to be fresh fires in the distance from the smoke curling up.

I know nothing about the killing of Hill. As to the drinking, several of the soldiers were at times under the influence of liquor; there was a great deal of drinking among the citizens; they had bottles of whisky, and there was four saloons in tents right across the line in Kansas opposite the booths. We got along in our duty all right had to use no violence, but at times had to speak pretty gruff to some.

MERT J. WHITTY,
Corporal, Troop C, Third Cavalry.

Sworn and subscribed to before me, at Fort Riley, Kans., this 1st day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

7.

Private Claes Hallencreutz, Troop C, Third Cavalry, stated under oath as follows:

I was on duty with my troop at the opening of the Cherokee Strip and on the day of the opening, September 16. I was under Sergt. Ihling to keep back the crowd until 12 o'clock noon; my orders were to keep back the crowd, lined up until the signal was given by the sergeant, and then I was to fire my piece in the air. A shot was fired in the crowd not very far from me a few minutes before 12 o'clock; this shot was fired by some citizen. I know so, because afterwards, about a quarter after

12 o'clock, a man who was riding out slowly into the Strip told me he saw the man fire the shot that made the break. I don't know the names of either. When this shot was fired before 12 on the 16th, a break was made a little further west on the line, about 300 yards from where I was; two men started ahead mounted, one in the lead on a gray horse and both on the dead run as fast as they could go; a crowd of 10 or 15 followed them from 50 to 75 yards in rear; as soon as they had gotten a little ahead the whole line broke. I had a slow horse and got out of the way of the wagons by getting inside of the school reservation fence and riding down south about 1,000 yards; then I went out there. I saw Sergt. Willard, who holloed to me and told me that a false break was made and to fire my piece and shoot high and try to stop the two men ahead and the crowd that followed them; they were at least 400 yards ahead of the sergeant and myself. He told me to shoot high over their heads in the air, which I did. I fired from my horse and started ahead; I fired about five rounds. Sergt. Willard had a faster horse than mine and passed me, and I saw him dismount and lie down and fire. I dismounted and fired one shot right under the man—of the leading man. I intended to fire near him so as to raise the dust, which I did; then I reloaded my piece and took aim to shoot the horse under him; then Sergt. Willard came and told me it was no use to try and stop them, so I did not fire. I did not see either of the two men fall from their horse; the man who was shot rode a sorrel horse and was the second man. I know this because I helped to bring the body to the school reservation about two hours afterwards.

When the sergeant fired lying down the two men must have been 500 yards ahead. I mean that the sergeant was kneeling instead of lying down. I fired the five shots before the sergeant knelt down and fired; when I fired they were about 700 yards ahead. I fired one shot after that, when I raised the dust around the advanced man, the man with the gray horse. I fired no more. I do not know which shot hit Hill; about that time the crowd began to come up in large numbers and passed on.

Sergt. Willard, Sergt. Ihling, Corpl. Conway, and myself were on duty on that part of the land; other soldiers were too far away to know what took place there. When Sergt. Willard and myself were pursuing the two men there were a number of shots fired from the rear, as I supposed by citizens, as many of them were armed.

As I rode back right away after this in the crowd, I met a citizen swinging his pistol in the air, and ordered him to put it up, which he did. After this I returned to main camp that day.

Sergt. Ihling being the senior sergeant was to give the signal, but he never gave it, for the crowd broke before the time. Sergt. Ihling was in the corner next to the fence holding the crowd back. When the shot was fired by a citizen that made the false alarm Sergt. Willard was not very far from me, about 25 yards; the shot was from a pistol, and not the report of a big gun.

I received my orders from both Sergt. Ihling and Sergt. Willard to keep the crowd back. I had no orders to shoot anybody.

I was not on duty at the booths at all. I don't know anything about the drunkenness, if there was any. I was with Sergt. Ihling all the time until the opening. I rode the line west with him before the opening.

I saw prairie fires burning in the distance, and it came in so close that the Indian school children at Chilocco had to go out and put it out; as to whom started the fire I do not know; a man living on Bitter Creek, right near the line, told me it was reported that a squaw man by the name of Blackwell was seen riding along and throwing out burning matches and setting fire to the grass in order to sell a large lot of hay which he had, said to be about 500 tons. I know the place, but not the name of the man that told me this.

CLAES HALLENCREUTZ,
Private, Troop C, Third Cavnlry,

Sworn on October 1 and subscribed to on October 2, 1893, before me, at Fort Riley, Kans.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

8.

ARKANSAS CITY, KANS., *September 30, 1893.*

Rev. D. D. De Long, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at the opening of the Strip and took up my position at the southwest corner of Chilocco school land. We were greatly surprised to find that the soldiers

gave permission to the homesteaders to make the run from the south side of Chilocco. We found on getting out there that the fence was open, and we drove out to the very southwest corner, and when the order was given "to run" I drove my carriage after them in a southwesterly direction.

I was within about 25 rods of Hill when he fell from his horse. I went to him at once and found him shot in the back of the head, the ball coming out of the right eye. I noticed him riding in the lead before being shot. He was running from the Kansas line. I looked at my watch at the time Hill was shot; it was then 12:05 noon. Hill's watch marked 12:15 when I opened it; this was after a short parley as to what we should do with his valuables, etc.

There were hundreds of people far in advance of Hill when he was shot, having started to make the run from the south front of Chilocco Strip.

The soldiers were boisterous in town; they frequented saloons and were in an intoxicated condition.

What I mean by the order "to go" was: We saw a puff of smoke on the southeast corner of the Chilocco line. I looked at my watch, which was the correct time I got from standard; it was then exactly 12 noon.

Mr. Hill was not armed at the time he was shot. He had a broad belt on, in which he carried a new hatchet and his flag stakes.

ARKANSAS CITY, KANS., *October 11, 1893.*

Col. E. M. HEYL, *U. S. Army:*

VERY DEAR SIR: I did not visit the booths south of our city during the registration of prospective settlers of the Strip, and have therefore no personal knowledge of alleged bribery of soldiers. I made my statement in letter to Congressman Hudson on the assertion of professed eyewitnesses to said acts. If desired can furnish the names of several such persons.

Very kindly and truly yours,

D. D. DE LONG,
Pastor of Congregational Church.

9.

STATE OF MISSOURI, *County of Gentry, ss:*

F. M. Hayden, of lawful age, being first duly sworn, upon his oath states:

That he is a resident of Gentry County, Mo., and that he was present at the time of the killing of John R. Hill by a soldier, on the 16th day of September, 1893, in the Cherokee Outlet, Indian Territory; that at the report of a pistol the line started from the north, myself and John R. Hill amongst the number, when at a point 3½ miles south of the north line and at a point near the southwest corner of the Chilocco reserve, a soldier, after firing three shots at John R. Hill, sprang from his horse and taking deliberate aim shot him in the back of the head. I was immediately in the rear of the soldier, about 150 or 200 yards, at the time of the killing. After killing John R. Hill the soldier got on his horse and rode back within 4 feet of me, toward the north line again. He said nothing. The soldier was riding a bay horse.

J. C. Stanberry, of King City, Mo., was present and saw the shooting of John R. Hill by the soldier. At the time of the shooting there were probably 150 or 200 persons in sight and ahead of John R. Hill.

I know that a number of soldiers, prior to the opening for several days, were intoxicated. Their names I do not know. I am of the opinion, from the action of the soldier who killed John R. Hill, that he was drunk at the time, but will not say positively that he was. I know that the sooners started the fire near Miller's ranch that burned an old lady to death. I know that another man was shot about 14 miles south of where John R. Hill was killed and near the claim of one Mr. Hart, of Wichita, Kans., but was not present when the shooting was done, but Mr. Hart told me that he was shot by the soldier.

Mr. J. C. Stanberry, of King City, Mo., will swear that the soldier that killed John R. Hill fired four times.

F. M. HAYDEN.

Subscribed and sworn to before me, a notary public within and for the county of Gentry and State of Missouri, this 9th day of October, 1893.

SEAL.] J. W. SULLINGER,
Notary Public.

My commission as a notary public expires January 10, 1894.

10.

STATE OF KANSAS, *Cowley County, ss:*

W. F. Smith, of lawful age, being first duly sworn upon his oath, deposes and says:

That on the 16th day of September, 1893, he was on horseback on the line of the State of Kansas, and a short distance west of the Chilocco Indian Reservation in the Indian Territory, and that he was there for the purpose of running south with the other parties along said line, for the purpose of getting a claim in the Cherokee Strip, to be declared open for settlement at noon of that day.

Affiant further states that shortly before 12 o'clock the word was given to go, and he, with others, upon their horses, started in the race for a home, and that after running for nearly a mile they heard several shots fired and saw a soldier upon his horse running toward them, and that said soldier ran in front of this affiant and several others, who were near him, upon their horses, and commanded them to stop and go back, with the threat in the following words: "God damn you fellows, go back or I'll kill you."

This affiant states that he then replied to said soldiers to make the others go back and he would go, whereupon said soldier repeated said threat in similar language, and this affiant then stated to him that that was a game two could play at, whereupon said soldier turned to the right and commenced firing his gun at men a short distance to the right of this affiant, and after shooting a couple of times said soldier alighted from his horse, kneeled upon one knee, and deliberately fired his gun at a man and killed him; and this affiant has since learned that the person killed was John R. Hill.

After killing Mr. Hill said soldier turned and began firing at this affiant, one bullet passing close to his face, so near that this affiant could feel the wind from it, and another bullet struck the ground immediately in front of this affiant's horse.

And further affiant stateth not.

W. F. SMITH.

Subscribed in my presence and sworn to before me this 29th day of September, 1893.

W. E. WILCOX,
Notary Public.

My commission expires on the 10th day of June, 1896.

A true copy:

E. M. HEYL,
Colonel, Inspector-General.

11.

STATE OF KANSAS, *Cowley County, ss:*

James W. Moody, of lawful age, being first duly sworn, on oath deposes and states:

That he is a resident of the county of Riley, in the State of Kansas, and that on the 16th day of September, 1893, he was in company with other parties on the State line about one-half mile west of the Chilocco Reservation, in the Indian Territory; that at the time said lands were declared to be open, at noon of said day, he started upon his horse, riding in a southerly direction, when he saw a certain soldier belonging to Troop C of the Third Cavalry, riding upon his horse in the direction of a man riding upon his horse a short distance ahead of him; that he saw said soldier fire his gun three times in the direction of a man riding in advance; that, before firing the third shot, he saw said soldier alight from his horse, kneel upon one knee and take deliberate aim toward said person and fire his gun; immediately after the firing of said shot he saw the man fall from his horse to the ground; that he has since learned that the person shot by said soldier at that time was John R. Hill, and that his home was at Keansburg, N. J.

Affiant further states that from the point where he saw said shooting and from the conduct of said soldier he fired his gun deliberately, intending that the results should be as above set forth.

JAMES W. MOODY, M. D.

Subscribed and sworn to before me this 29th day of September, 1893.

GEO. L. BROWN,
Notary Public.

My commission expires on the 1st day of September, 1896.

A true copy:

E. M. HEYL,
Colonel, Inspector-General.

12.

STATE OF KANSAS, *Cowley County, ss:*

Charles S. Meade, of the age of 13, being first duly sworn, on oath deposes and says:

That he resides in Arkansas City, Cowley County, Kans., and has so resided for more than twelve years last past. That on the 16th day of September, 1893, affiant was stationed near the southwest corner of the Chilocco Indian school reservation in the Indian Territory, for the purpose of witnessing the race of the boomers into the Cherokee Strip, at noon of that day; that two or three minutes before 12 o'clock false signals and alarms were fired by guns, and that one John R. Hill, a person intending and prepared to take a claim in said lands, believing said alarms and signals were the proper signals for starting into the lands, started upon his horse to run into said country; a soldier belonging to Troop C, of the Third Cavalry of the United States Army, followed shortly after said Hill and this affiant saw them race with their horses for quite a distance, when said soldier alighted from his horse, raised his gun to his shoulder, took deliberate aim toward the said John R. Hill, and this affiant states that immediately after the firing of said shot by said soldier, John R. Hill fell from his horse to the ground.

Affiant further states that immediately thereafter he drove toward the prostrate form of the said John R. Hill, and was one of the first persons to reach him after the shooting; that one D. D. DeLong was the next person to arrive where said Hill was lying; that at the time he reached the body of Mr. Hill his life was extinct, and an examination of his body showed that a bullet had entered the back of his head at the base of the brain and had penetrated through the entire head, coming out near the inner corner of the right eye.

Affiant further states that the conduct of the said soldier in following Mr. Hill and aiming his gun at him and firing indicated the purpose above set forth.

And further affiant stateth not.

CHARLES S. MEAD.

Subscribed in my presence and sworn to before me this 29th day of September, 1893.

GEO. L. BROWN,
Notary Public.

My commission expires on the first day of September, 1896.

A true copy.

E. M. HEYL,
Colonel, Inspector-General.

13.

STATE OF KANSAS, *Cowley County, ss:*

Charles S. Rathburn, of the age of 13, being first duly sworn, on oath deposes and says:

That he resides in Arkansas City, Cowley County, Kans., and has so resided for more than three years last past.

That on the 16th day of September, 1893, this affiant was stationed near the southwest corner of the Chilocco Indian school reservation in the Indian Territory, for the purpose of witnessing the race of the boomers into the Cherokee Strip at noon of that day; that two or three minutes before 12 o'clock false signals and alarms were fired by guns, and that one John R. Hill, a person intending and prepared to take a claim in said lands, believing said alarms and signals were the proper signals for starting into the said lands, started upon his horse to run into said country; that a soldier belonging to Troop C of the Third Cavalry, of the United States Army, followed shortly after said Hill, and this affiant saw them race with their horses for quite a distance, when said soldier alighted from his horse, raised his gun to his shoulder, took deliberate aim toward the said John R. Hill, and this affiant states that immediately after the firing of said shot by said soldier, John R. Hill fell from his horse to the ground.

Affiant further states that immediately thereafter he drove toward the prostrate form of the said John R. Hill and was the first person to reach him after the shooting; that one D. D. De Long was the next person to arrive where said Hill was lying; that at the time he reached the body of Mr. Hill his life was extinct, and an examination of his body showed that a bullet had entered the back of his head, at the

base of the brain, and had penetrated through the entire head, coming out near the inner corner of the right eye.

Affiant further states that the conduct of the said soldier, in following Mr. Hill and aiming his gun at him and firing, indicated the purpose above set forth.

And further affiant stateth not.

CHARLES S. RATHBURN.

Subscribed in my presence and sworn to before me this 29th day of September, 1893.

[SEAL.]

GEO. L. BROWN,
Notary Public.

My commiseion expires on the 1st day of September, 1896.

A true copy.

E. M. HEYL,
Colonel, Inspector-General.

14.

ARKANSAS CITY, KANS., *October 2, 1893.*

D. H. Hays, a resident of Butler County, Kans., being duly sworn according to law, stated as follows:

I was west about 150 yards from Chilocco Strip, on State line, when the rush was made September 16. I heard a shot fired about noon and the rush was made. I joined in and made the run. I had a fast horse and was soon to the front. A soldier began shooting at those in the lead, and I saw a man fall from his horse, which afterwards I learned was Mr. Hill. The soldier then held me up to a standstill with his gun, near the southwest corner of Chilocco lands; then he turned and went west on a run on his horse. When I got up to the southwest corner of Chilocco Strip all the homesteaders had started and made the rush from south side of Chilocco, and were all gone at the time of the shooting of Hill. I do not know the man who did the shooting, but believe I could recognize him.

One soldier offered if I would pay him $5 apiece he would take us and give us big start of the crowd. There were five men in our party, which would make $25 for the soldier. We did not go. We told him we had registered and would abide by the law. This was about two hours before the opening. I do not know the soldier's name.

15.

ARKANSAS CITY, KANS., *September 30, 1893.*

P. C. Duff, resident of Arkansas City, being duly sworn according to law, states as follows:

I made the run from the south side of Chilocco reservation. I was ahead of Hill about 1 mile when he was shot. It was just 12 noon when we started on the rush. I afterwards took charge of Hill's body.

16.

ARKANSAS CITY, KANS., *September 30, 1893.*

James Sutherland, a resident of Arkansas City, Kans., being duly sworn according to law, stated as follows:

I was present at the opening of the Strip September 16, 1893. I was on the Kansas line, about 300 yards from the northwest corner of the Chilocco reservation, when the gun was fired at 12 noon, as far as I know. I saw Hill about 25 yards in front at the start. We ran about three 3 miles. I saw a soldier fire three shots south; he turned around and fired two shots east and killed one horse. This soldier did all the shooting. The third shot fired south by the soldier is the one that must have hit Hill. When the firing began we stopped about two minutes. The soldier who did the shooting was a German, as he did not speak very good English.

I think most of the soldiers were drunk at time of opening, as they behaved so badly. As soon as the soldiers stopped firing we all rushed to the front. There

were thousands of people who made the rush from that corner of the Kansas line. There were about 200 feet of solid people, horses, and wagons. There was about 22 miles of line. The Chilocco line was 4 miles, its entire front.

I heard a soldier tell the sergeant that Lieut. Caldwell said there was no orders for homesteaders to make the run from south side of Chilocco Strip. At the time this message was received there were thousands of people on the south line of Chilocco Strip.

17.

ARKANSAS CITY, KANS., *September 30, 1893.*

A. Abbott, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at opening of Strip on September 16, 1893. I was on the line of south front of the Chilocco school lands and near the west end. I saw the line move forward to my right and heard the soldiers say: "Halt! that's not the signal to go." About five or six men continued to the front. Hill was in the lead, and the soldiers fired upon those in advance. I saw a man fall from his horse, and have since learned it was Mr. Hill. The entire line followed immediately afterwards. By several watches it was 12 noon, and just at that time a pistol shot was fired—which all supposed was the signal "to go."

I have seen soldiers in town under the influence of drink, but where they were quiet.

18.

ARKANSAS CITY, *September 30, 1893.*

Charles H. Wier, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at the day of opening of Strip, at west side of Chilocco and Kansas line. I saw a man riding a sorrel horse. When shooting occurred he fell out of his saddle and the horse went on. This was about 12:06, noon, by my watch, which was about right. Some one said "go." The front of the line had been cleared by the soldiers. They went to the left, near Chilocco Reservation. The whole line started, about 10,000 people. Hill and one or two others were in advance, and Hill was killed about 3 miles from the Kansas line. The soldiers continued to fire on the homesteaders until they were about 3 miles. The last shot was fired at me.

I considered the behavior of the soldiers brutal, before and during the opening. Several were abusive and profane.

19.

ARKANSAS CITY, KANS., *September 30, 1893.*

Thomas Baird, a resident of Arkansas City, Kans., being duly sworn according to the law, stated as follows:

I was present at opening of Strip, and stationed on Kansas line, near west end of Chilocco fence. I noticed a party to my right, about 30 rods, start to make the rush at two minutes before 12 noon. My watch was standard time. I set my watch the day before. We then started to the front; then one soldier came out and stopped us and said go back. Then he started across to head off the party who had started on our right, shooting his revolver at the same time. Another soldier inside the fence said to go on, motioning with his hand. We all went forward.

20.

ARKANSAS CITY, KANS., *September 30, 1893.*

Peter Hollenbeck, a resident of Sumner County, Kans., being duly sworn according to law, stated as follows:

I was present at opening of strip, September 16, 1893. We were all in line waiting for orders to go, when some one said, "There they go." We observed the people on the left, near the schoolhouse pasture, making the rush. I looked at my watch at that

time; it was lacking a half minute of 12 noon. I had the standard time. They had at the time we observed them, started about half a mile to the front of our line; we then rushed forward. All the homesteaders where I was were well behaved.

21.

ARKANSAS CITY, KANS., *September 30, 1893.*

William Briley, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at opening of Strip on the 16th. I made the run about 1½ miles east of the Chilocco school lands. Two shots were fired about 12, noon, which all supposed was the signal to go. A couple of soldiers fired the shots and we all moved forward. We could see the homesteaders who had taken up their position on the south front of the Chilocco school lands; they had about 3 miles the start of us. Some of the soldiers appeared harsh and rough in their manner before the opening of the Strip. I saw soldiers on their horses on duty drunk, and have seen them in town drunk.

At day of opening some soldiers said we could make the run from south front of the Chilocco school lands, and others said that if we wanted a home we had better not run from there.

22.

ARKANSAS CITY, KANS., *October 1, 1893.*

C. M. McIntire, a resident of Arkansas City, Kans., being duly sworn according to law, stated as follows:

I overheard a conversation between a citizen and soldier at a restaurant out on the line on evening of opening of Strip, September 16, 1893, to this effect: The soldier said he had orders to kill the first son of a bitch that crossed the line before the signal was given. Some minutes before the signal was given this old man (Mr. Hill) broke the line and several others followed. The soldier said he called a halt a number of times, and the old son of a bitch paid no attention to it, and he then threw his carbine down, and made him bite the dust. The general description of the soldier as I remember was that he was dark complexioned, black moustache, about 6 feet tall, dark hair, and probably of foreign descent. I had no direct conversation with the soldier, but simply saw him, and listened to his conversation. The party of soldiers were drinking beer, and one of the soldiers was under the influence of liquor at the time.

23.

STATE OF KANSAS, *Cowley County, ss:*

Charles P. Duff, being first duly sworn on his oath, deposes and states:

That he is a resident of Arkansas City, Cowley County, Kans., and has so resided for six years last passed; that he is a member of the firm of Duff & Oldroyd, engaged in the furniture business at said city; that he is acquainted with one Lieut. Caldwell, of Troop C, Third Cavalry, U. S. Army, and that on the evening of the 16th day of September, 1893, between the hours of 5 and 6 o'clock p. m. of said day, he had a conversation with Lieut. Caldwell relative to the killing of one John R. Hill, of Keansburg, N. J., who was on that day shot and killed by one of the soldiers under the command of Lieut. Caldwell, in said troop above mentioned, and that in said conversation with said lieutenant he stated to me in substance the following language: "That the soldier who that day shot and killed the said Hill was acting under orders and did as he had been commanded."

Affiant further states that from the general bearing, conduct, appearance, and statements of the said Lieut. Caldwell that he, this affiant, was forced to reach the conclusion that said officer fully ratified and approved of the killing of said John R. Hill by said soldier.

CHARLES P. DUFF.

Subscribed and sworn to before me this 29th day of September, 1893.

[SEAL.] GEO. L. BROWN,
Notary Public.

My commission expires on September 1, 1896.

A true copy.

E. M. HEYL,
Colonel, Inspector-General.

24.

ARKANSAS CITY, KANS., *September 30, 1893.*

L. D. Long, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at day of opening of Strip. Some of the soldiers told me we would make the run from the south side of the Chilocco strip, and some told us that we could not and that they were driving others back from that place. There were three of us; we did not go over there.

25.

SWORN STATEMENT OF NONCOMMISSIONED OFFICER TROOP C, THIRD CAVALRY.

First Sergt. J. T. Murphy, Troop C, Third Cavalry, who has been in the service twenty-three years, being duly sworn, stated as follows, in answer to interrogations:

1. Q. State your name, rank, regiment, and station?—A. James T. Murphy, First Sergeant, Troop C, Third Cavalry, Fort Riley, Kans.

2. Q. Were you on duty recently in connection with the opening of the Cherokee Strip; if so, when and where?—A. I was, from about September 1 until it was over on the same month, at or in the vicinity of Arkansas City, Kans.

3. Q. Were you assigned to any special duty in connection with the opening; if so, state what duty, what orders you received, and briefly all that occurred in connection with the same?—A. I was at first; I had a detail of nine men at three registration booths for guard at Chilocco, about a mile from the Indian school. I was there from the 11th until the night of the 15th of September. Lieut. Caldwell, Third Cavalry, gave me orders to preserve peace and quiet and prevent any riots at these booths.

There must have been somewhere near 20,000 people at these booths during that time; there were three lines of people. I had five men on post during the day, and two men during the night. The only instructions I received were from Lieut. Caldwell; everything passed off quietly; I had no trouble with the citizens. I was to prevent persons from slipping ahead of others on the lines (my men were all dismounted); all citizens respected my authority, and good order was maintained throughout. I was relieved by other men on the afternoon of the 15th by my son, Sergt. Murphy, of the troop; there seemed to be still as many men in the line to register as when I first been there; what I meant about 20,000 people was including everybody around there, whether in the lines or not. When I was relieved on the 15th I estimate that about 16,000 people had registered, and about 2,000 or 3,000 in the lines. After being relieved I moved camp of the troop from east to inside of the Chilocco school reservation, near the south side; that night I was detailed and went to the south side of the school reservation with nine men to start the line of people from there on the next day, noon, 16th. No citizens there that night when I went there. Lieut. Caldwell ordered me there; about half-past 6, September 16, the people began congregating there, and by noon there was a large crowd of about several thousand on the south side of the Chilocco school reservation, probably a mile and a half south of the northern boundary.

I rode along in front and explained to the people and had no trouble in keeping and holding them back for the signal at noon. The signal was made by firing at noon, and all started. As far as I know of there was no trouble of any kind either before or after the rush was made on my part of the line.

A good many people afterward spoke as dissatisfied with allowing the people to go from the southern line of the school reservation; that it gave those people an advantage, and they called them "sooners." I understand afterward that it was legal. As a matter of fact that position did give them an advantage over people who were on the northern side of the Cherokee Strip. After the rush I went back to camp with my men, and other detachments were also called in.

There were prairie fires burning all around that country. I know none of my men started any; it was common talk among homestead seekers that "sooners" had gotten in and fired the country (that was very dry and dusty) so as to screen themselves and prevent people from getting on claims. It was common talk among the citizens that they thought that the soldiers had allowed these "sooners" to get in there to keep others off the claims. It was simply common talk; nobody seemed to know anything about it, just imagined that it was so.

I had very particular instructions from Lieut. Caldwell to watch out and see no one got through, and so far as I know none got through; all the people seemed to behave well so far as I know. Neither me nor my men arrested any citizens. When at the booths I arrested two soldiers who belonged to camp; they had gotten drunk at a tent-saloon just across the line about 50 feet away from the booths; they and

the saloon keeper were creating a disturbance by firing shots through the saloon tent, and were fighting among themselves; they had gotten outside the tent and I arrested them and sent them to camp. There were tent-saloons right along the line, and of course men could go there and get whisky. Many persons in line of the booth had bottles of whisky and would offer it freely to the men. With the few exceptions there was no drunkenness with the men in the troop, and there would have been none at all had it not been for the tent-saloons and the bottles of whisky carried by citizens.

I have no knowledge of bribery or attempted bribery of the men. I saw some men who told me they were deputy marshals; they called on me for no assistance whatever; they seemed to be simply looking on; the Interior Department officials gave me no orders nor asked for any assistance, there being no occasion. I heard a citizen complaining to Lieut. Caldwell that one of the mounted soldiers on the outside had been bribed to let a man ahead to the booth. The lieutenant called the mounted soldiers in line and asked this man to pick out the guilty soldier; he said they were all alike and could not recognize him. This is the only case I heard of.

I know nothing of the killing of Hill; when that took place I was 4 or 5 miles away from where I was that day. When all the detachments of the troop were called in that evening there was considerable talk about it, and everyone felt sorry that it occurred. Sergt. William R. Willard, Troop C, Third Cavalry, talked to me that evening. He said it was an accident; that the man was about 400 yards from him; that he had the sight down; that he aimed to fire over his head, and the distance being so great that the bullet must have fell and hit him in the head. He spoke as though it was his shot that hit the man. I heard about the case of Trumpeter Herman Stechert, Troop C, Third Cavalry, shooting a horse north of the line one or more days after the opening. He had been sent for a doctor to attend a man in the troop who had been accidentally shot the day before the opening. Immediately after shooting the horse the trumpeter came into camp; he was drunk at the time; he was sober when he was sent after the doctor; he must have gotten the whisky after leaving camp.

A couple of days after the opening we made a scout with the whole troop down the railroad to the new towns, to see that everything was all quiet, and a couple of days after that went down 25 miles from our main camp to New Ponca; found everything all quiet, and a couple of days after that returned; remained in camp until about September 28, when we returned to Fort Riley, Kans.

JAMES T. MURPHY,
First Sergeant Troop C, Third Cavalry.

Sworn to and subscribed to before me this 1st day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

26.

COUNTY OF GEARY, *State of Kansas, ss:*

Personally appeared before me Corpl. Louis P. Conway, Troop C, Third Cavalry, who being duly sworn, stated under oath as follows:

I was on duty with my troop at the recent opening of the Cherokee Strip near Arkansas City, Kans. I was out scouting with a detachment of about 24 men, first under Lieut. Caldwell and then under the first sergeant. We went south along the Arkansas River with men deployed hunting for intruders; found some, not many, probably 5 or 6, in the four days we were out. I think there were others found that I didn't see. I understood that the names and description of parties intruding were taken by noncommissioned officers in charge of detachments.

We went as far as the Ponca Agency. Saw prairie fires in the distance all the time; don't know how they started. Our men did not start any of these fires. I was there through all the duty from September 1 to 28. I know nothing nor heard anything of any attempt to bribe or influence soldiers to favor citizens in any way.

After returning from this scout I was in camp a day or so, and then under Sergt. Schevene and 9 or 10 men scouted down the east side of Arkansas River to keep people from coming into Strip from that way. We turned back to Kansas line about 25 or 30 men from there. Had no trouble in doing this duty. I had my orders from the sergeant and he had his orders from Lieut. Caldwell. We were on this duty three days. After that I was on duty in the afternoon of Thursday, the 14th, at one of the booths at Chilocco until about midnight. I was mounted. Had no men under my orders; there were about 6 of us. All had our orders from Lieut. Caldwell to keep the line of citizens registering straight and in order—quiet. A citizen came to me and asked me if I could not put him in ahead of others. I told him "no." I heard other soldiers say that parties tried or asked to get in ahead. I heard citizens say

after the opening that parties had gotten in ahead at the booths out of their turn. Saw no case myself of that kind. It was hard work, there were so many people, but the lines were peaceable and orderly. They had a system of companies or squads with a leader or captain.

Next day, the 15th, we moved camp inside the Indian school reservation. Saw nothing unusual that day. On the 16th Lieut. Caldwell told me to go with him, as he would need me. We went to the booth that morning; people still registering, but only a small number there. I was then ordered by Lieut. Caldwell to report to Sergt. Ihling or Sergt. Willard for the opening. I did so. About 10 o'clock that morning reported to Sergt. Willard, who was west of school reservation on the line between Strip and Kansas trying to keep crowd back that wanted to go to south line of school reservation. Some of crowd seemed angry--loud talking; they said Lieut. Caldwell had said they could run from south side of school reservation. Sergt. Willard said he could not let them go (they wanted to go in on the Strip down west of the fence to the south side). He sent me to find Lieut. Caldwell and see if there was any such authority, and said if he let them in there that way he (Willard) could not hold them at all. I went to find Lieut. Caldwell, but after hunting an hour I did not find him and returned to Sergt. Willard, who was still holding the crowd back with the help of other soldiers who were along the line west. They were several hundred yards apart and in front of the crowd; this was about 11:30 when I came to Sergt. Willard. He ordered me to ride along the line and keep the crowd lined up properly. I asked him how the signal was to be given. He said it would start from the fence and go west by the firing of carbines.

I rode west at a walk for about 600 yards, carrying out my orders. Somebody asked me what was the matter back there. I looked around and saw there was a break about 500 yards back east, near the fence; a small bunch or bunches of mounted men were about 50 yards the leaders—that far in advance of the line. I told the people it was a false start—that no signal had been given—that it was not 12 o'clock (it must have been then about ten minutes of 12). The whole line then broke from the east, all the horsemen successively, toward the west where I was; the whole crowd then surged and moved forward. I saw I could do nothing, so I rode ahead to get out of the way. It was then that I saw towards the east and south two soldiers who were out in advance of the main crowd firing two shots. They were fired up in the air. I think Hallencreutz fired one; I don't know who the other one was. I heard other shots fired, but don't know who fired them, whether soldiers or citizens. The crowd passed on. I followed as far as south end of Chilocco reservation and then went to one of the booths. I don't know how the break was started; I heard no shot fired at that particular time. I know nothing about the killing of Hill. After that I was on duty with troop in camp and on one scout. The night of the 16th, after the opening, the prairie fires were closer and brighter. I heard that a woman was burned up; also that parties had started the fires from the Arkansas River, when men wanted to go in and keep others out. I had no orders to fire on anybody. I heard of no charges about soldiers being bribed to let "sooners" in until I came back to Riley, when I heard it was in the newspapers.

There were two or three men of the troop who were put in confinement while there for being drunk. There was nothing else that I heard of. The people seemed all to be generally good-natured and orderly, considering the big crowd. There was no trouble between the soldiers and citizens that I saw.

LOUIS P. CONWAY,
Corporal, Troop C, Third Cavalry.

Sworn to and subscribed to before me at Fort Riley, Kans., this 2d day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry, Assistant Inspector-General.

27.

Sergt. Edward Murphy, Troop C, Third Cavalry, stated under oath as follows:

I was on duty at the opening of the Cherokee Strip; before the opening a part of the time I was scouting with a detachment of 12 men along the Arkansas River south, to keep "sooners" out. One day, on that duty, afterwards, with 5 men, found one "sooner," Gwyn and family, in a wagon, located in a pocket on Arkansas River; put him out across the north; he made no offer to bribe me or my men. Another time scouting with Lieut. Caldwell from the Ponca Agency to Chilocco Springs, our permanent camp.

I was on duty at the booth all the time, about four days; had 5 men under my orders, part of the time patrolling the line and again in charge of the booths.

My orders were to keep the peace and prevent men buying into the line, getting ahead, etc., and if I saw any attempted bribery of any enlisted man to report it to

Lieut. Caldwell. They attempted to bribe me—two different parties; don't know names of the parties. One man tried it twice; offered me $2.50 first and $5 the second time. I ejected him from the grounds; then I saw him afterwards in the act of getting registered and I ejected him again. The leader of that squad or company spoke up and said he belonged in line, and that he was sent out to see if he could bribe the soldiers. I then let him stay. He wanted me to let him in ahead of his turn to get registered.

Question by Capt. Lee. How could such a thing be done when there were so many men in line all watching?

Answer. I don't know how it could be done; it would have to be done in front of all the people and would likely make a row right off, as everybody was watching that no one could get in ahead of his turn. In one instance a deputy marshal of Arkansas City tried; shoved himself in ahead. I was appealed to by the people in line, who said he had no right in there ahead. I ejected him. These were the only cases that came to my knowledge.

Many of the citizens had bottles of beer with them; offered it to soldiers; my orders were to prevent any men from drinking; one soldier was there on pass in the night of the 14th, I think; he was drunk. I arrested him by order of Lieut. Caldwell; sent him to camp in arrest.

No cases of men drunk on duty that I know of; had no other trouble than that stated; crowd was orderly, considering that probably 15,000 in the three different tents registered. The gamblers and other hard cases made some trouble, so I heard, just across the Kansas line.

I stayed at the booths all night of the 15th, and my 5 men patrolled the east line towards the Arkansas River, meeting Corp. W. Whitty's patrol. Next morning, the 16th, I had charge of the whole east line from the booth to the Arkansas River, about 4½ miles; had my men deployed and kept the crowd back until two minutes of 12 o'clock, when I gave the signal from right in front of the booths, firing my gun in the air; the other men took it up east and the crowd rushed in. Lieut. Caldwell gave me a watch for the purpose. I was 200 yards in front of the line, where I could be seen, as were my men also, stationed on little hills.

No disorder nor false alarm at all on my line; everything passed off nicely. I don't know how the people got on the south side Chilocco reservation to run from there. Know nothing, as to how prairie fires were started. I saw lots of fires; it was very dry and dusty. I know nothing, except by hearsay, about anybody being burned up or killed; know nothing of the killing of Hill.

I gave the signal two minutes before 12, under Lieut. Caldwell's order, so that the people on my line would have time to reach the south line of the Chilocco reservation when that line would start at 12 o'clock.

I was relieved from the booth about 5 p. m., that day with my party, and after that did duty with the troop immediately under command of Lieut. Caldwell. The booths were kept open until the run started, but there was no one there to register.

EDWARD MURPHY,
Sergeant, Troop C, Third Cavalry.

Sworn and subscribed before me at Fort Riley, Kans., this 2d day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector General, Department of the Missouri.

28.

Corp. George Morris, Troop C, Third Cavalry, stated under oath the following:

I was on duty at opening of the Strip, with my troop, near Arkansas City. Before the opening I was scouting and patrolling, keeping out intruders, cattle, etc.

From the 10th until the night of the 15th I was on duty at one of the booths, helping handle the crowd and keeping order. Had no trouble in carrying out my orders. I received my orders from Lieut. Caldwell to keep the men not in line back from the line and away from the gates entering the booths. Sometimes I had 1, 2, and 3 men under my orders to help. We were mounted. Some citizens had whisky bottles and would offer the soldiers drink. Lieut. Caldwell's orders were for us not to accept anything nor to drink. The order was obeyed by me and my men. There was 1 man, Private Goodrich, who got drunk there. I was ordered by Lieut. Caldwell to arrest him and to take him to camp, which I did. I know of no other case.

Offers were made by some citizens of $1 and $2 to me and my men to get them in ahead to the booth. To my knowledge no such offer was accepted, and under the circumstances of the citizens in line being under captains and leaders and on the watch out, it would have been impossible for men to get in ahead without detection.

I did not have to use any severe measures, nor was there any trouble. I was relieved on the night of the 15th of September about 5 or 6 o'clock, and went to main camp. Some time during the night I was ordered to saddle up and go to the south side of Chilocco school reservation, along with First Sergt. Murphy and about 11 men.

About daybreak next morning, the 16th, I was ordered to take 2 men and go to southwest side school reservation. I stayed there with my men until about 10:30; then Private Costello brought me orders from Lieut. Caldwell to go to west line north of there and report to Sergt. Ihling. I went there alone and reported to Sergt. Ihling, and helped to keep back the crowd. I stayed there until the false break was made, which was about ten minutes to 12. The break occurred right near me—in a few yards. Some horsemen in front of wagons gave a kind of cheer, and a bunch of, may be 25 or 30, horsemen started. Sergt. Willard was not there at the time. I heard no pistol fired before the break. Immediately after the whole line broke Sergt. Ihling said: "No use to try to stop them." I neither saw nor heard any shooting. There may have been some shooting, but in the noise and confusion I did not hear it. I know nothing about the killing of Hill. I went then with Sergt. Ihling to camp, and continued on duty with troop, scouting, etc., until we came back here.

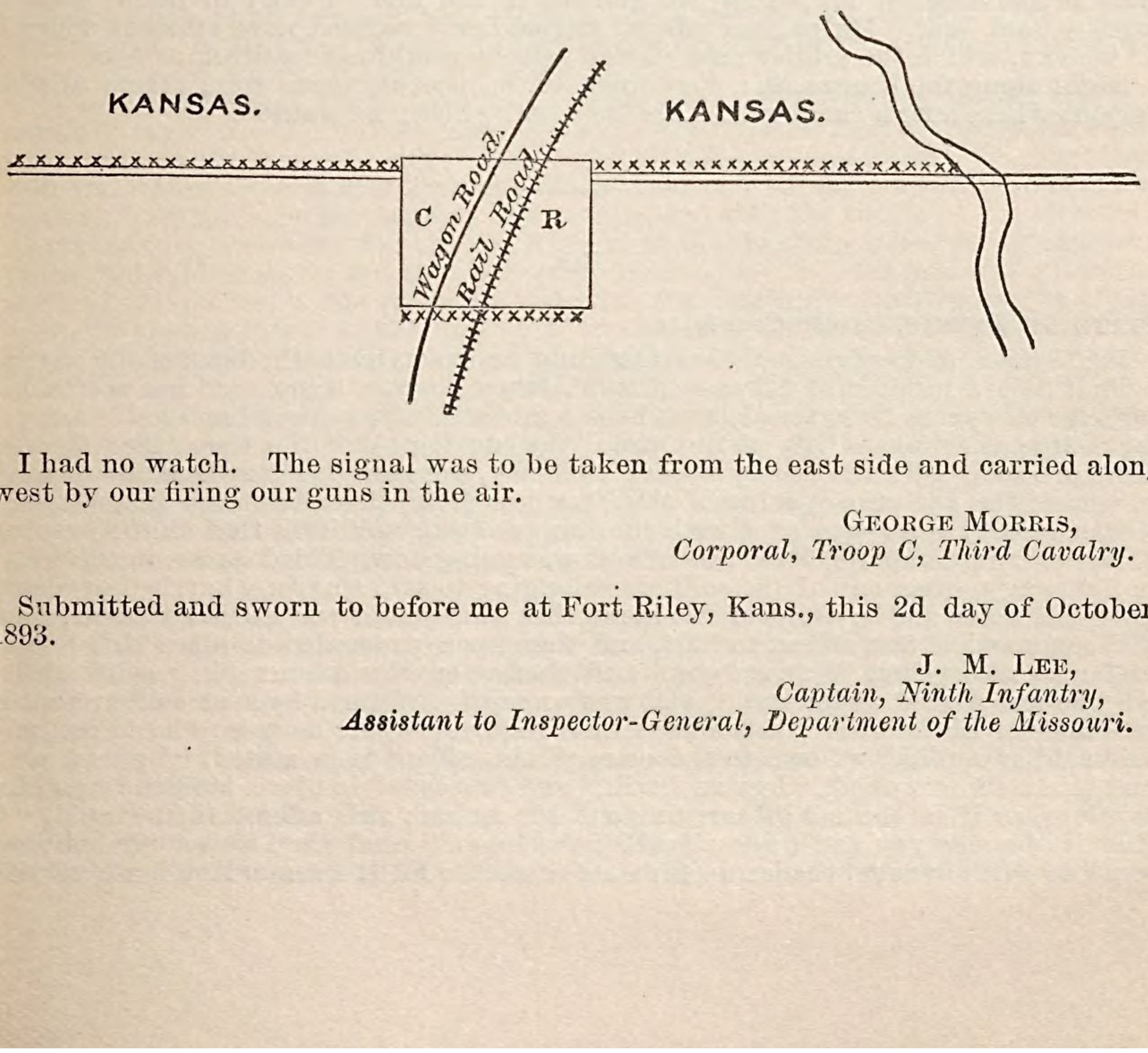
One day, before the opening, I saw a passenger train coming north, and soon after a big fire started up near the track; a strong wind blowing fire spread over the country; it was not put out; we could see smoke of fires burning all the time in the distance; don't know how they started; very dry and dusty.

In scouting, before the opening, we met a few people in wagons; only saw one on horseback, crossing the reservation going south; we turned them back and put them off; no trouble; there was no offer of bribery by these people. For such a large crowd it was very orderly. I heard rumors that away off some people had been burned up and some had been hanged.

In regard to the people who were on the south side of Chilocco school reservation, 3 or 4 miles long, there was a big crowd came there until early morning of the 16th; must have been several thousands; that gave them a big advantage over those back on the Kansas line, on the east and west. It seems to me if the others had known of that we could not have held the crowd back.

The people on the south side of the Chilocco school reservation must have come from there to make the run, from the road going south along the railroad; the road and railroad run through the Chilocco reservation. Lieut. Caldwell was there and I supposed they were by authority.

This diagram shows what I mean.



I had no watch. The signal was to be taken from the east side and carried along west by our firing our guns in the air.

GEORGE MORRIS,
Corporal, Troop C, Third Cavalry.

Submitted and sworn to before me at Fort Riley, Kans., this 2d day of October, 1893.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General, Department of the Missouri.

29.

PERRY, OKLA., *October 5, 1893.*

Ambrose D. Sutton, of St. Joseph, Mo., who has claim in County K, Cherokee Strip, stated under oath as follows:

I was present at opening of Strip on September 16, 1893. Made the run from the State line about 100 yards west of the northwest corner of Chilocco school reservation. I had been there in line twenty-four hours previous to the opening, and about 9 o'clock in the forenoon soldiers began to arrange the people in line, and kept them back continuously along the line, riding back and forth; and about a minute or so before 12 o'clock a "boomer" near the corner fired a shot like a pistol shot and yelled out in a loud tone, "Go!" Then 100 or 150 men to the right and left broke ranks—all horseback and a few buggies—and all dashed to the front. The shot was about 75 yards to my left, right near the corner. At this time the soldiers, five or six, were galloping along in front about 50 feet probably, getting ready for the signal of the soldiers—firing a gun in the air. Two or three minutes before the pistol shot was fired my partner looked at his watch and said it was four minutes yet till 12 o'clock. The break was made in two or three minutes after this—a minute or so before 12 o'clock.

The parties broke to the right and left of me. The main line did not break, but waited until 12 o'clock. The first parties who broke were then probably three-fourths of a mile in front when main crowd began to move and all moved out. As soon as break occurred the soldiers yelled out "Halt!" repeatedly; tried every way to stop them. The soldiers were in front of them and hollered and signaled not to go. The parties must have heard them—they pushed ahead—did not halt; the soldiers fired to stop them, that is, not at them as it seemed, but across their front promiscuously. Right after that I saw the soldiers gallop off after a bunch of men, and got to shooting at one or more. They got off of their horses and got down, and seemed to take aim and fired two shots apiece. They were on the hill and away in front—could not say how far. The men that they fired at went on.

The soldiers appeared sober. I noticed nothing out of the way all the twenty-four hours I was waiting to make the run. I made the run on a fast horse that had been under training. I made the distance of about 22 miles south in one hour and thirty minutes. I was at the registration booths about thirty-six hours, in line there from Wednesday, 9 a. m. to about 3 or 4 in the afternoon on Thursday. The conduct of the troops there, so far as I know, was all right. There was one soldier I noticed who was especially efficient and careful. I heard that some men had bought in ahead of others—know nothing personally. One soldier had a man that I saw, who it was said he had arrested for selling his number in the line. Plenty of liquor there—whisky, and beer. My partner offered the soldier I noticed as so efficient a drink of whisky, which the soldier refused and said he would take a drink of beer.

Right along the Kansas line, just opposite the booths, there were plenty of tent saloons where a man could get all the beer and whisky he wanted.

30.

STATE OF KANSAS, *Cowley County, ss:*

J. C. Sefton, of lawful age, being first duly sworn on his oath, deposes and says:

That he is a resident of Arkansas City, Cowley County, Kans., and has so resided for over two years last passed; that he is a minister of the gospel and holds a regular charge at Arkansas City at this time; that during all of the times that the soldiers of Troop C, Third Cavalry of the U. S. Army, were camped near here and on duty in connection with the opening of the Cherokee Strip, this affiant was in and about Arkansas City and acquainted with the doings of said soldiers; that on the evening of Friday, September 8, 1893, this affiant was going down Third street, in said city, in his buggy, when one of the soldiers belonging to said company hurriedly rode up upon his horse and in front of the horse that this affiant was at this time driving, and commanded this affiant to halt, and thereupon proceeded to place this affiant under arrest, saying, "I arrest you," and thereupon this affiant asked said soldier why he was placed under arrest, and was promptly informed by said soldier that it was none of his business; this affiant then inquired where he was to be taken, and said soldier replied, "Down to the camp;" this affiant then stated, "I guess not," and said soldier replied, "I guess I will," and proceeded to place his hand upon his revolver, as if in the act of carrying out his threat; this affiant then stated, "If that is the way you act, I guess I will have to go." And they turned their horses south to Fifth avenue, thence up that street to the Fifth Avenue Hotel, where this

affiant requested to stop and see some parties before going to the camp, and left his horse and buggy in charge of said soldier, said soldier alighting from his horse and taking charge of this affiant's horse and buggy, and this affiant then went into said hotel and telephoned for police, and also sent a messenger, one C. P. Duff, for a policeman to come and protect him as a citizen of the United States, and properly preserve his rights; that soon thereafter Policeman Rarick, and also McIntire, came to this affiant's rescue and arrested said soldier, and relieved this affiant from imprisonment and gave him his liberty; that said police officers took said soldier to the jail of this city and there locked him up until he could be heard before the proper court; that the records of said court show the arraignment of the soldier as a criminal for being drunk and disorderly, and also show a fine assessed against said soldier for said offense; and affiant further states that the sergeant of said company paid the fine so assessed.

This affiant further states that the revolver carried by said soldier was loaded and every chamber thereof full; that said soldier also carried a carbine, and also a belt filled with cartridges.

J. C. SEFTON.

Subscribed and sworn to before me this 29th day of September, 1893.

GEORGE L. BROWN,
Notary Public.

My commission expires on the 1st day of September, 1896.

A true copy.

E. M. HEYL,
Colonel, Inspector-General.

STATE OF KANSAS, *Cowley County, ss:*

G. H. McIntire, of lawful age, being first duly sworn, on his oath deposes and says: That he was a resident of Arkansas City, Cowley County, Kansas, and has so resided for most of the time for twenty years; that at this time he is a member of the police force of Arkansas City, duly qualified and authorized; that he has served in such capacity for said city for several months last passed; that he was in the employ of said city, as such officer, during all of the times that Troop C, of the Third Cavalry of the U. S. Army, was camped near said city, for the purpose of superintending and performing said duties in connection with the opening of the Cherokee Strip, immediately south of this place; that during the time that said soldiers were camped near this place they were frequently seen upon the streets of this city in squads of two or three at a time and frequently one alone.

This affiant further states that in the performance of his duties as such officer he carefully watched said soldiers, and repeatedly noticed that they carried a full equipment of arms while in said city; that on the 14th day of September 1893, one of said soldiers, whose name at this time this affiant is unable to state, was conducting himself in a very unbecoming manner and interfering with the rights of the citizens of Arkansas City, and that for the purpose of preserving the peace he attempted to place said soldier under arrest, whereupon said soldier drew his gun and leveled the same at this officer, in the attitude and with the intent of shooting at this affiant, with the spoken threat at the time that "no damned officer could place him under arrest;" that this affiant immediately placed said soldier under arrest and conducted him in jail of this city and there locked him up as required by law under such circumstances; that as soon thereafter as possible notice of such arrest was given to the officer in charge of the troops to which this soldier was a member, and a request was made of said officer that they take him away from the city, and that the officer in charge of said company thereupon requested this affiant to hold said soldier in custody until he could conveniently take him away and properly punish him for said offense; that during the night of September 14, 1893, said soldier broke jail and escaped.

Affiant further states that during the day of September 15, 1893, he visited the State line, where the registering booths were located and there saw said soldier who had, the day before been placed under arrest and in jail, on duty along the line of boomers who were on their way down to register at said booth and that said officer defiantly made sport of the officers of the city of his arrest and incarceration, with the further statement that he was on his own territory and they could not do anything with bim.

Affiant further states that during the week commencing September 10, 1893, and ending September 16, 1893, while he was on duty in said city, as such police officer, he frequently saw soldiers here in Arkansas City in an intoxicated condition and

conducting themselves very unbecoming and uncivil, and that, with scarcely any exception, they carried a full equipment of arms, in violation of the laws of the State of Kansas and of the ordinances of the city of Arkansas City.

G. H. McINTIRE.

Subscribed in my presence and sworn to before me this 29th day of September, 1893.

[SEAL] GEORGE L. BROWN,
Notary Public.

My commission expires on the 1st day of September, 1896.

A true copy.

E. M. HEYL,
Colonel, Inspector-General.

32.

ARKANSAS CITY, KANS., *September 30, 1893.*

Levi Leaf, a resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

Wednesday, September 13, before the opening of the Strip, I was at the booth to register, about 12 o'clock midnight. There was a soldier, a woman, and a cowboy, all very drunk, there. The soldier began shooting his revolver, and he took the cowboy's revolver and emptied also. So I had to lay flat on the ground to prevent being killed. A horse was shot at the time, and some one called out, "Soldier, you have shot a horse." He replied, "Let the son of a bitch go; Uncle Sam can pay for it." Next morning I saw the horse there: he was shot through the body.

33.

ARKANSAS CITY, KANS., *September 30, 1893.*

Rev. J. C. Sefton, resident of Arkansas City, Kans., being duly sworn, according to law, states as follows:

I was in the Army for over seven years, and in all my experience I never saw a more undisciplined command. Their conduct towards the citizens in this place, and homesteaders generally, was insulting. They were drunk and disorderly; and I never saw but two soldiers in the town that were not armed. This place is about 4 miles from the Kansas line; the camp of cavalry was about the same distance from town. The soldiers' language was vile and vulgar, and their appearance generally was a disgrace to the United States Army.

They are the first troops that ever came here that we have had any trouble with; usually the people are fond of troops, as many of them are old soldiers.

34.

ARKANSAS CITY, KANS., *September 30, 1893.*

George W. Cunningham, a resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

All that I saw was the action of a soldier in front of Mr. Behrand's store in Arkansas City. While riding by on a bicycle I saw a soldier just in the act of falling, he having attempted to stop a team, and the driver whipping up his horses, the soldier was thrown off his balance. The laughter of bystanders provoked him, when he immediately went to his horse, standing near by, and took out his carbine and put a cartridge in it from his belt, and stepped out in the street with the gun in his hand and looked around as though trying to pick out the person who had provoked him. My opinion from his actions was that he intended to shoot. I immediately ran into a drug store and telephoned for a policeman. Upon coming out of the drug-store I saw a policeman talking with the soldier and stepped up to them, behind the policeman, and heard the soldier say that he would not be arrested; that he had his gun and would protect himself. The soldier refused to put up his gun and refused to be arrested and talked in a disorderly tone of voice. The soldier appeared to be under the influence of drink. He was then arrested and taken to the city jail.

There have been very many soldiers here at different times, but I have never seen such a drunken and demoralized set of men before. I never saw many, but what few I saw would reflect discredit upon the Army.

35.

AR NSAS CITY, KANS., *October 2, 1893.*

A. S. Brecount, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I noticed during the registration, before the opening of the Strip, a great many drunken soldiers, both in town and on the line while on duty. Their manner towards the homesteaders was rough and abusive.

36.

ARKANSAS CITY, KANS., *October 2, 1893.*

D. L. Wier, resident of Arkansas City, Kans. being duly sworn according to law, states as follows:

The soldiers while stationed here were very disorderly in their conduct. They were rough in their manner towards the homesteaders. I also saw several soldiers in town drunk. I consider their conduct a reflection upon the U. S. Army.

37.

ARKANSAS CITY, KANS., *October 4, 1893.*

Robert Neil, a resident and assistant marshal of Arkansas City, Kans., being duly sworn according to law, states as follows:

About a week before the opening of the Strip 4 soldiers came into town, mounted, and rode about in a disorderly manner, cursing and reeling around in a drunken state, and pulling their guns. This was all to the fear and peril of the citizens of the town, who were very much excited. I ordered the soldiers to leave the town; they said they were not ready to leave just then. I then said they had better go or they would get into the soup. They finally left, grudgingly. They were all well armed with pistols and carbines.

38.

ARKANSAS CITY, KANS., *October 1, 1893.*

J. R. McKeever, a resident of Rock Creek, Kans., being duly sworn according to law, stated as follows:

I was present at booth near Arkansas City, and was waiting in line for my certificate on September 14, at about 9.30 a. m. The crowd got a little too close to the booth, and a soldier rode up and down the line telling them to stand back. Some seemed slow to obey, and the soldier became impatient and crowded upon them with his horse; at this time it looked to me as though a citizen grabbed the horse's bridle; the soldier then drew out his revolver and struck the man on the head three or four times with the butt of it. I then saw a bad gash above his forehead, and the blood streaming down his face. I do not know the soldier's name, but could recognize him.

The soldier had light mustache and light brown hair, and was about 5 feet 9 inches high. I consider this soldier's treatment of the citizen most brutal.

39.

FORT RILEY, KANS., *October 2, 1893.*

Trumpeter Herman Stechert, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty at the opening of the Strip. Day after opening was sent to Arkansas City for a doctor for a wounded man of the troop; found the doctor, told him; got a couple of drinks, and started back to camp; met a boy about 16 or 18 years old riding one horse and leading another. One mounted man was following him about 10 yards. He said the boy had stolen his horse and asked me to help him get his horse.

The boy was trotting. I told him to stop. He abused me with vile names, called me a blue-coated son of a bitch, and said no soldier could get his horse away. I then fired my pistol to scare him and stop him, but not to hit him. I fired several shots (three). I hit the lead horse, and the boy dropped the reins and ran away. I looked around to see the man who asked me to help him, but could not see him anywhere.

40.

STATE OF KANSAS, *County of Butler, ss:*

William I. Hoy, being first duly sworn, on oath says, that on Sunday, the 17th of September, 1893, about 3 o'clock in the afternoon, he was coming north from the Cherokee Strip to Arkansas City, and when near the line, at a stone house, just north of the Chilocco Reservation, he saw a man on horseback leading a horse that he at once recognized to be E. N. Smith's, of El Dorado.

The young man was then traveling north. There were 4 of us in a spring wagon, and we were hurrying up our team to catch up with him, and just as we drove up the young man met a soldier in the road and told the soldier, "that horse is a little horse I found loose in the Strip. What shall I do with him?" The soldier said, "That horse belongs to Lieut. Caldwell down to the camp, and I will take him down to him." One of the men with me, Mr. Palmer, told him that that was E. N. Smith's horse, of El Dorado, and got out of the spring wagon and went and patted the horse on the head, and the soldier said, "It does not; it belongs to Lieut. Caldwell, and he has the papers for it." I told him that it was not possible that Mr. Smith had sold his horse, and this soldier had nothing to do with the horse, and told the young man to take him to Arkansas City and leave him at the livery stable, and leave Mr. Smith prove his property and he would pay him well for his trouble. At that the soldier pulled his revolver and fired twice, shooting in the air.

The young man leading the horse let loose the strap and went among the crowd of people in the road, and the horse started on towards Arkansas City and got about 50 yards. When the soldier discovered that the horse was gone he put spurs to his horse, with revolver in his hand pointing towards the horse, and rode rapidly after. When some 20 or 25 feet from him he fired. I could see that the ball struck the horse some place. He then rode up to the left side of the horse and fired two shots. The ball entered about 12 inches from the backbone, near the third and fourth ribs. After shooting the horse he turned around and rode back to where we were in the spring wagon, and leveling his revolver at our heads told us we were under arrest, and to turn around in the road and go back to camp. We turned the wagon and went back with him to the reservation, and after driving us for 2 or 3 miles around over the reservation he told us then we could go. We then started for Arkansas City. On going back to where the horse was shot we found that he was not there, and we came on towards Arkansas City, as we supposed at the time, about a mile, where we found the horse dead in the road.

The horse was in fine condition when shot, and was killed by the effects of the shots fired by this soldier. One of our party cut one of the bullets out of the horse after he was dead.

On Monday we went over the ground again in company with Mr. Smith, and on examining the distance the horse had traveled we found he had traveled more than a mile and a quarter after shot before he died.

WILLIAM I. HOY.

Subscribed and sworn to before me this 30th day of September, 1893.

A. SWIGGETT,
Clerk District Court.

41.

STATE OF KANSAS, *Butler County, ss.*

E. N. Smith, being first duly sworn, on oath says:

That on the 16th day of September, 1893, he drove a little bay horse into the Cherokee Strip; that he was a horse of great spirit, courage, endurance, and speed, and that he drove him only about 12 miles in the race, and in no manner hurt the horse by the driving, but that he was in perfect condition on Sunday, the 17th; that at 12 o'clock southwest of Kirk, now Santa Fe, Okla., the horse broke loose from a little strippling where he was tied and started for Arkansas City; that affiant, as soon as he could arrange to follow him, did so; that a little more than a mile and a half north of the Cherokee Strip, on the road to Arkansas City, he found the horse lying dead in

the road. The horse was not sweating and had not been, but was apparently in perfect condition when killed, but that he was at that time dead, and could have been dead, as affiant then believed, two or three hours. This was at 5 o'clock p. m., on the 17th day of September. I took it for granted that he had run to the creek at the Chilocco Reservation, and having taken a drink of water had died from the effects of it, and so believed until I arrived at Arkansas City, where I met three of my neighbors, William I. Hoy, Spencer Allen, and William James, who told me they were eye witnesses to the shooting of the horse and detailed the circumstances to me as related in the affidavit of William I. Hoy, hereto attached.

On the morning of the 18th I went to the camp on the Chilocco reservation and informed the lieutenant in command of my business, and he then and there sent for a soldier, and after speaking to him in an undertone, some 10 or 12 feet from me, turned to me and said, "Mr. Smith, here is the man who shot your horse." I then asked him how he could be so cruel as to have killed that little horse, and he said those men, meaning the men in the spring wagon, claimed the horse. I told him that they did not claim the horse, but had only told them that the horse belonged to Mr. Smith, of Eldorado. The lieutenant then and there put the soldier under arrest and I went back to Arkansas City.

Affiant further says that his horse was worth $500, and he is able to establish the value by competent witnesses whenever the value of the horse is in controversy.

E. N. SMITH.

Subscribed and sworn to before me this 30th day of September, 1893.

A. SWIGGETT,
Clerk District Court.

42.

ARKANSAS CITY, *October 1, 1893.*

David R. Thompson, a resident of Topeka, Kans., being duly sworn according to law, stated as follows:

I made the run with my brother, September 16th, and located my claim. We were returning to Arkansas City the next day, the 17th, and caught a loose horse, and when we got to the State line we asked a soldier what we should do with the horse. He said I will take care of that horse. I noticed then that the soldier was under the influence of liquor. He had a bottle in his pocket and the cork was out; the contents, which was whisky, had leaked out and wet his shirt and trousers. At that time three men drove up in a spring wagon; one of them said, "there is Billy now; we know who owns him; a man in Eldorado owns that horse." The soldier objected to the horse being taken to Arkansas City, and said he would keep the horse himself. The soldier fired three shots in the air which frightened the horse, and he got away and ran down the lane towards the city. This was on this side of the State line and in Kansas. The soldier followed after the horse and tried to catch him, and failing to do so, shot the horse three times. I saw the horse the next morning in the road dead. I do not know the name of the soldier, but I think he is a German. He had sandy hair and moustache. This was on the west road leading to Chilocco school.

43.

ARKANSAS CITY, KANS., *September 30, 1893.*

Harry Long, resident of Eldorado, Kans., being duly sworn according to law, states as follows:

The night of the run, September 16, about half past 8 or 9, a drunken soldier came to where we were camped at Government Spring, about 1½ miles south of the line, and says, "What's become of all that hay?" I said, "I do not know." He said, "There was 50 bales of hay left, and 4 sacks of feed, and you sons of bitches have found it. I have just killed a big bloke up here on the hill, and I have a notion to kill you sons of bitches." He demanded money, as he said, for the hay; and we gave him about 90 cents for 4 bales of hay that we found there. This hay had been left by the soldiers. The soldier then pulled his gun and said he had a notion to blow our brains out. He then run off. He was very drunk.

I saw lots of soldiers drunk at the booths and while mounted on duty before and during the opening of the strip. I also saw a great many drunken soldiers in town. Their conduct was very bad.

A horse belonging to a friend of mine was shot by a drunken soldier about 2 miles from town. I saw the soldier who shot the horse later. He was very drunk at the time.

44.

ARKANSAS CITY, KANS., *September 30, 1893.*

O. E. Kirtley, resident of Chandler, Okla., being duly sworn according to law, states as follows:

I was at Cary or Government Spring on the night of the 16th of September, 1893. After the opening of the strip a drunken soldier came to our camp and wanted to know what had become of a lot of hay and feed that was left there. He abused us very much; called us sons of bitches and was very profane. He said he had killed one bloke and he would give it to some of us. He then pulled his carbine and pointed it at me and said he would give me the contents of the gun, and dashed his horse at me. He cocked his gun and placed it within 3 or 4 feet of my head, and said he would blow my brains out. I asked him to take his gun away as it might go off, and he replied "I will spatter your brains all over this hill." He then said we would have to pay for the hay, and we collected what change we had, about 90 cents, and gave it to him for the 4 bales of hay that were there. This hay had been left by the soldiers.

The soldier said that if any of us had a contest on our claim and would give him $10 he would settle it for us. He then rode off to another party of homesteaders. I do not know the soldier's name; but he was Irish. The soldier said he was an Irish son of a bitch and had killed one big bloke, and would give it to some one before morning.

45.

FORT RILEY, KANS., *October 2nd 1893.*

Capt. Oscar Elting, Third Cavalry, states as follows:

On August 30, 1893, pursuant to Order 146, Fort Riley, Kans., I left Fort Riley with my troop for duty on the Cherokee Outlet; arrived at Caldwell, Kans., on August 31, and went into camp near Bluff Creek, Ind. T., on September 2, 1893. From this point I sent out, at various times previous to September 16, scouting parties to scout the district asigned to me; to remove therefrom all unauthorized persons and cattle. My district was as well patrolled as possible, and every effort made to keep out intruders.

On Sunday evening, September 10, pursuant to telegraphic instructions from Lieut. Col. Parker, Thirteenth Infantry, and at the request of Mr. Ketchem, in charge of the registration booth near Caldwell, I sent a guard of one noncommissioned officer and three privates to guard the booth. This guard was continued until the opening and increased before the close of the registration. On September 9 I sent a noncommissioned officer and four privates to Hunnewell, Kans., to guard the booth at that point; this guard was increased and maintained until the time of the opening.

On September 16, the day of the opening, I had my troop posted along the northern boundary of my district to hold the crowd back until 12 o'clock and to give the signal simultaneously along the whole line. I took charge of the western portion of my territory; Lieut. Rivers, Third Cavalry, of the eastern portion. At the time of the opening I had also two noncommissioned officers and three privates at the point where the Rock Island Railway enters the Territory, to carry out the orders of the Secretary of the Interior; this pursuant to telegraphic instructions from Lieut. Col. Parker.

The signal along the line at the time of the opening was given by carbine and pistol shots fired simultaneously as nearly as possible—this under telegraphic instructions from Lieut. Col. Parker.

The northern boundary of my territory was about 19 miles long, and at the two booths in my district, at Caldwell and Hunnewell, more than 26,000 people were registered; so, of course, with the 46 men in my troop, deducting 3 men sick in camp and the detachment of 5 at the railroad crossing, the men on the morning of the opening had to be very much scattered even to make a showing of any kind along the line.

At the time of the opening everything passed off in a satisfactory manner all along my line so far as I could learn, except that Lieut. Rivers reported to me that at Hunnewell the crowd stampeded one minute before 12 o'clock and began to enter the Strip, and he, recognizing the utter hopelessness of attempting to stop such a large crowd with the force at his command, fired the signal shot at about three-fourths of a minute before 12 o'clock

No soldier under my command fired any shot at any man or any horse, or in any way injured any man or horse.

No complaints or reports of any one of my command receiving bribes were made to me at any time; and I am sure that in no way was my command in any way cruel to any one.

No one of my troop was drunk on duty; and cases of drunkenness were remarkably few among the citizens, considering the crowd, the excitement and the fact that beer was openly sold in the State of Kansas and near the registration booths, and right contiguous to the Cherokee Strip.

I know that none of my command in any way started any prairie fire.

My troop was stationed at a spring on the Cherokee Strip, about 3 miles southeast of Caldwell, Kans., and about a half mile south of the northern boundary of the Strip. My district was the western half of that portion of the Strip bounded on the east by the Arkansas River, on the west by the Rock Island Railroad, on the south by a line running east and west through the southern boundary of the Ponca Reservation, on the north by the northern boundary of the Strip.

I can not state that at the time of the opening my district was absolutely clear of "sooners," but I believe that it was as clear of those people as was possible, taking into account the extent of territory or the large crowds registered at the two booths on my northern line.

Homesteaders were fairly well behaved before and at the time of the opening. A display of the force at my command was necessary to restrain them, but no actual employment of force was made.

My instructions to noncommissioned officers were, to expel all unauthorized intruders and all cattle, bringing them first to my main camp at Caldwell, unless they happened to be near the line of the Strip somewhere, and to take a description of all intruders.

In the territory under my command there was a total absence of any conflict between soldiers and citizens except in one case, in which the noncommissioned officer in charge of the guard at the booth at Caldwell arrested a drunken man on the 100-foot strip, who was indiscriminately firing his pistol in some of the camps of the people along the border. This man was held, to prevent the possibility of his killing some one, until his friends promised to take care of him, and until he had partially sobered up.

46.

FORT RILEY, KANS., *October 2, 1893.*

First Lieut. Tyree R. Rivers, Third Cavalry, states as follows:

On August 30, 1893, I left this post with my troop, E, Third Cavalry, Capt. O. Elting commanding, for duty on the Cherokee Outlet, and on September 2, 1893, went into camp with the troop about 3½ miles southeast of Caldwell, Kans., and about one-half mile south of the northern boundary of the Cherokee Outlet.

Under Capt. Elting's directions I made one scouting trip with 2 noncommissioned officers and 13 privates south from Caldwell, Kans., along the Rock Island Railroad to Wild Horse, and from thence sent out a subscout east along Red Rock Creek to the northeastern limit of the territory of my troop; thence north of east, taking in the country between Red Rock Creek and the Salt Fork of the Arkansas River. This scout was for the purpose of expelling intruders. I returned to our main camp on September 10, having found no intruders.

From September 10 to September 15 I was on duty at the main camp of my troop the greater part of each day, being present at the registration booth near Caldwell, about one-half mile north of our camp. On Friday evening Capt. Elting sent me to Hunnewell, Kans., to take charge of matters there on the day of the opening and to superintend the giving of the signal and keeping back the crowd along the eastern half of the northern line, for which my troop was responsible.

I had at Hunnewell 2 noncommissioned officers and 20 privates. On the morning of September 16 I sent a scout of 1 noncommissioned officer and 2 privates along the Chikaskie River, south of Hunnewell, to see if any "sooners" could be discovered. This party found no "sooners."

I kept, on this morning, one man on guard at the registration booth and one on guard at my camp; the remainder of my detachment were scattered along the line to give the signal at 12 o'clock and to keep the crowd back. The signal was given as nearly as possible by firing simultaneous shots along the line at 12 o'clock.

So far as I could learn everything passed off well along the line, the crowd remaining in line until the signal was given, except at Hunnewell, where I was personally. At this point I was to give the signal myself, but at about one minute before 12 o'clock a mounted man about 300 yards to the east of me, started on the gallop into the Strip and stampeded the crowd on his right and left. I galloped towards him, intending to try to stop this stampede, and then recognizing the utter hopelessness

of stopping such a crowd, I at about three-fourths of a minute before 12, fired the signal, thinking it would be better to give all an even show.

No shots were fired by any of the soldiers with whom I had anything to do at any one, and no man and no horse was killed or shot by them; neither were any complaints of cruelty or bribery ever made to me. There were several cases of drunkeness among the men of the troop at Caldwell, but not on duty. This was no more than could be expected considering the ease with which intoxicants could be obtained.

No prairie fires were started by the men of my troop.

I believe that, at the time of opening, the district of the troop to which I belonged was as nearly clear of "sooners" as possible.

From my observation, homesteaders were fairly well behaved before and at time of the opening, but a display of force was needed to keep them back.

47.

CALDWELL, KANS., *October 10, 1893.*

J. H. Ball, postmaster at Caldwell, Kans., states as follows:

So far as I know, the soldiers here on Bluff Creek acted like gentlemen, and know of no complaint whatever. I met them a number of times. They were always gentlemanly and pleasant, and know of no one being bribed.

48.

FORT RENO, OKLA., *October 7, 1893.*

Capt. John B. Johnson, Third Cavalry, being duly sworn according to law, states as follows:

My camp was at Black Jack Springs, about 3 miles north of Orlando.

The district assigned me was that portion of the Cherokee Outlet east of the Rock Island Railroad and south of the continuation of the line dividing the Otoe and Ponca reservations.

My district, as far as I know, was clear of "sooners" at time of opening. I had made several arrests previous to that time.

In connection with the opening of Perry town site I learned of a man being there dressed in the uniform of a United States soldier, his object being, I believe, to get desirable lots or to use his position as a United States soldier for the purpose of obtaining information. I arrested this man, but he made his escape before the opening. I have his citizen clothing and 61 cents found in his possession.

Large bodies of land had been fired, and some caught fire from an engine on the railroad. Claimants stated to me that after locating their claims they intentionally burned the grass to examine the soil or land. One man told me that after he had located and thought he had the most desirable land in the world he fired it, and finally concluded that it would not grow white beans, and abandoned it. This was after he had fired and examined the ground or soil.

The great majority of the people were well behaved and orderly, but stringent measures were rendered necessary on the part of the troops to prevent delay in the transaction of booth registration. At Stillwater booth, where probably the roughest element had congregated, at the instigation of Corp'l Tolin, the registration clerks gave up half of their dinner hour, and worked after 6 p. m. as long as they could see, in order to register the sick and women who were taken from the line where found. This action on the part of the corporal was heartily cheered by the mob.

I was sent out in June with instructions to clear the Strip of intruders and cattle. I remained on this duty until Col. Parker assumed command of troops in connection with the opening.

I was to keep the Strip clear of "sooners," protect Government property, keep order, etc., until the opening.

No force was required in my district to hold people back before the proper time to start, but two men broke from the line before 12 noon. Sergt. Tyldsley started after them and brought them back to the line, and took their certificates from them. The line on the extreme left of me broke about three minutes before 12 noon. I am told that some one fired a shot, which was the prescribed signal for the opening; and recognizing the impossibility of checking these people, and in order to make it air for all, I then gave the signal to go by the firing of a pistol.

Spirituous and malt liquors were publicly sold on the Oklahoma line opposite the booths, which I was required to guard.

One man approached me with the remark that his time was worth money, and that he did not want to wait. I informed him that he could take his chances in the line and that no exceptions would be made. He said: "You can if you want to; there is money in it for you." He escaped before I could secure him, there being quite a crowd there at the time. I warned my men against the taking of bribes previously. They had not been paid, and there was no evidence of any money in the troop after the opening, which would have been the case had money been given as bribes.

A person attired in the uniform of an infantry colonel, and passing under various names, was securing exceptional privileges as to registration for homesteaders for his own personal gain. He represented himself to me, when asked what he was doing with that uniform on, as being a colonel of Arkansas militia. I expelled him from the booth lines.

Too much can not be said in commendation of the conduct of Corpls. Jacob Tolin and August Arnold, Troop B, Third Cavalry, who commanded the guards at Stillwater and Orlando booths. They succeeded in managing immense crowds of the roughest classes without riot or bloodshed, and maintained order throughout. They are very highly spoken of by Interior Department officials, as well as by citizens.

49.

POND CREEK, OKLA., *October 8, 1893.*

Capt. George A. Dodd, Third Cavalry, being duly sworn according to law, states as follows:

Headquarters of my command was at Pond Creek. On day of opening I had guards over three railway bridges; scouting parties along Pond Creek, Polecat Creek, and Osage Creek; guards at the town sites of Pond Creek and Round Pond; guard on booth at Cameron and remainder of troop scattered along the line between Caldwell and Kiowa.

My district was bounded on north (56 miles) by southern line of Kansas; on east (32 miles) by Chicago, Rock Island and Pacific Railway; south (36 miles) by sixth standard parallel; west (29 miles) by north and south line passing through Kiowa. Total: 153 miles border; area, 1,624 square miles.

I believe, and all outside evidence goes to show, that my district was practically clear of "sooners." In clearing the district the troop and detachments marched 1,626 miles from the 2d to the 16th of September.

The grass was not burned in my district during time of opening of Strip.

The homesteaders were remarkably orderly and well behaved, both before and at time of opening. Except in a few cases of drunken ruffians and attempted bullying, no force had to be used. I personally went among the people, explained the desires of the Government, and asked the assistance of the better class in carrying out the prescribed rules. They readily responded by reporting attempts at "soonerism" and in assisting to hold the line in check on the day of opening.

My instructions were generally to arrest and remove intruders on that portion of the Cherokee Strip under my charge, and prevent unauthorized persons entering thereon previous to 12 o'clock m. on the 16th of September.

My noncommissioned officers and privates were instructed to arrest, and hold until released by me, all persons crossing the line before the proper time. In case of persons riding across the line before the proper time, and refusing to halt when ordered to do so, the guards were ordered to shoot their horses and then arrest the persons. In case intruders resisted by use of firearms, soldiers were instructed to fire upon, disable, and, if absolutely necessary, kill such persons.

Officers were authorized to make arrests for lawlessness in the Strip and on the 100-foot border, especially in the vicinity of the booths. It is not known to me that any United States marshals visited my district prior to the opening. There were neither United States marshals nor other civil officers at or near the booth under my charge, *i. e.*, the one at Cameron.

Many attempts were made to bribe not only men of my troop, but myself. Offers were openly made, and appeared to be regarded simply as a matter of business.

The people with whom my men were thrown in contact have been loud in their commendation of the courteous and obliging manner in which my men treated them, before and after the opening.

Positively no drunkenness existed.

50.

POND CREEK, OKLA., *October 7, 1893.*

John V. Moffett, mayor of Pond Creek, Okla., being duly sworn according to law, states as follows:

I was present before and at opening of Strip, September 16, 1893. The conduct of the troops while here during that time was very good. There have been no complaints or any charges of bribery. I heard of one or two cases of attempted bribery, but the soldiers refused it. Our safety committee of citizens petitioned the department commander to allow the troops to remain here for the moral effect and on account of the unorganized condition of county and town. I have read statements sent out by newspaper correspondents, and consider them misleading and infamous in the extreme. I believe the most of this agitation connected with the opening was brought about for political effect. I visited the booths at Caldwell on several occasions, and was surprised at the discipline of the men in line, and how closely, without organization, they adhered to the rules, and made the statement to several gentlemen who were with me at that time of the strong desire of the average American for fair play.

I came in on the superintendent's car of the first train, on day of opening, September 16. We watched the run of horsemen with interest, and kept track of them as one passed the other. A dozen horsemen beat our train to Pond Creek. I am satisfied, as were those who were with me at the time, that there were no "sooners" in this country; in fact, we were among the first upon the Government town site. The Government town site is so situated that about all parts of it were visible from the train. We were all satisfied there were no "sooners" there. All the desirable claims were taken up by the men who made the run into the Strip at the proper time—12 o'clock noon. I did not see a single case of drunkenness, except in the case of one citizen.

51.

ARKANSAS CITY, KANS., *October 2, 1893.*

Arthur Wilcox, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was on the Chilocco Strip about half past 9 in the evening September 15, and observed a great many lights, such as lamps and camp fires, south in the Cherokee Strip. About as many lights were in sight at the Kansas side. These lights and fires evidently represented "sooners." This was the night before the opening of the Strip.

52a.

POND CREEK, OKLA., *October 8, 1893.*

Dr. John R. Kane, a resident of Pond Creek, Okla., being duly sworn according to law, states as follows:

As far as my observation is concerned I do not think troops could have behaved themselves better under the circumstances. I belive they have done their duty. I know from personal knowledge that one of the soldiers was offered $100 as a bribe and would not take it. I know that another soldier was offered $50 as a bribe and declined it. There has been no complaint of "soonerism" here. There has been no brutality or drunkenness among the soldiers stationed in this district. There were no complaints on line near Cameron, and perfect order at the booths. The soldiers did their duty properly as far as I could observe. I know of one soldier who refused $10 to allow a man to register at back of booth ahead of others in line.

The start 4 miles this side of Cameron was absolutely fair. The rush was made at 12 noon, September 16. I did not make the rush, but remained behind to observe the others.

52b.

POND CREEK, OKLA., *October 13, 1893.*

Resolved, That we, the citizens of Pond Creek, in mass meeting assembled, desire to extend our thanks to the U. S. Army and their worthy representative, Capt. Dodd, commander of Company F, Third Cavalry, for the manly and upright conduct of the troop since taking charge of this Territory and our coming into contact with them on that memorable September 16, 1893.

Resolved, That we condemn the reporters of various newspapers for sensational reports sent out militating against Government employés and the troops in charge. We feel positive that there were no "sooners" in the territory covered by Capt. Dodd's troop.

Be it further resolved, That we respectfully ask, in the interest of good government, that the troops be allowed to remain in Pond Creek until the 25th of November, at which time we expect civil organization.

Resolved, That a copy of these resolutions be sent to Gen. Miles and also a copy to Capt. Dodd.

R. M. HARRISON, *Chairman*.
C. M. WEBB, *Secretary*.

53.

FORT RENO, OKLA., *October 6, 1893*.

Second Lieut. Charles A. Hedekin, Third Cavalry, being duly sworn according to law, states as follows:

My command (Troop A, Third Cavalry), was stationed at North Enid, Ind. T., the district assigned it being the southern half of the portion of the Strip included between the Rock Island Railway and the meridian of Kiowa, Kans.

This district was not, in my opinion, clear of "sooners" at the time of the opening. I am of that opinion because there were quite a number captured during the night preceding the opening, and the patrols which were in the interior during the night could not possibly have covered the whole territory. Patrols also chased other "sooners," but were unable to catch them.

The grass caught fire at a point on the southern border of the Strip about 1,000 yards west of the railroad. The fire caught, I believe, from a homesteader's campfire, on September 14, 1893, and spread toward the north. During the night preceding the opening there were fires on all sides. These were said to have been lighted by "sooners."

The break at 11:55 a. m. was near the Rock Island Railway. The largest crowd had assembled there, probably about 15,000, and at time of break about 11,000 rushed into the Strip. I had at this point 10 men and could not restrain the crowd. About 4,000 homesteaders stood fast until signal was given, at 12 noon, September 16, 1893.

The crowd was orderly and well behaved. I never saw a drunken man among either soldiers or homesteaders.

I am satisfied that the people did not intend to make the rush before the proper time, but just as the train on the railroad was moved up on the line quite a number of shots were fired and many supposed it was the true signal to go.

A homesteader complained to me that he had given a soldier $15 for the purpose of filing his claim in advance, but that the soldier had beaten him out of the money, and he wanted me to get his money for him. This man could not identify the soldier.

I took special care to inform the people registering that the soldiers were there only to preserve order and had nothing to do with the clerical work.

There was no case of cruelty on part of the soldiers reported to me.

Homesteaders were exceedingly well behaved before and during the opening. No force was required to keep them in check, until 11:55 a. m. on September 16, 1893, when the line broke. My command was then utterly powerless as far as checking the men was concerned.

Noncommissioned officers and men were instructed to bring all "sooners" to me, except on the day of the opening, when the orders were to hold "sooners" until noon and then send them to Enid.

Soldiers were instructed to use all necessary force in making these arrests, but no force was needed, as all "sooners" submitted quietly when caught, although some "sooners" challenged during the night of September 15–16 fired at the patrol and managed to escape.

No civilian officers of the law were allowed in the Strip until the opening, and therefore no arrests made by them in the Strip. Outside the border the laws of Oklahoma prevailed, and were administered presumably by United States marshals and the county sheriffs with their deputies. Upon the opening the laws of Oklahoma went into effect in the Strip also. Arrests were then made by United States marshals only until local government was organized. No instance occurred requiring intervention of the military force.

I do not know of any case where homesteaders were harshly treated, and have heard no such complaint.

I heard it rumored that soldiers were being bribed and made an earnest effort to locate the corruption if any existed, but I could get no direct evidence whatever on which to base such a charge

54.

EL RENO, OKLA., *October 16, 1893.*

Edgar E. Jennings, deputy county attorney of Canadian County, states under oath as follows:

I was present at the opening at Hennessey, Okla. Was there three to four days before the opening on the 16th. At the booth the crowd was simply awful in numbers—almost a mob from first to last. They would press up on the ropes guarding the booth and time after time the soldiers had to put them back and even force them back to keep them from crowding over the booth. There were parties going in all the time from the different lines of citizens "companies" so organized to facilitate registration. Where their names were called by the different "captains" they were permitted to enter and register. I saw nothing irregular, only the wild mob. Some few now and then would break through regardless of lines, and the soldiers would push them out pretty rapidly. I observed affairs at the booths for two or three days, returning to Hennessey at night. The soldiers answered civilly all questions when they had time. There was no brutality or roughness or misconduct on the part of the soldiers. They simply did their duty and did it well. No drunkenness among the soldiers; there was more or less among citizens, not a great deal. The nearest saloons were 4 miles distant.

I saw a good many citizens go to soldiers and make requests and soldiers would say they could do nothing for them and motion them back into the line. Some soldiers mounted and some on foot.

On the day of the opening the start was made from east of the booth at 12 o'clock, on the south line of the Cherokee Strip, from ten to twenty thousand people, under the supervision of the soldiers, who fired their pieces for the signal. By the sound I judge a cannon was fired at the time. A break was made a quarter to 12, both on the east and west side of the track, and several thousand started, probably one-half or more of the crowd going in at that time. No proper signal had been given. Do not know what occasioned the break. The soldiers did not fire on the crowd, but captured some horsemen, wagons, buggies, and footmen, and brought them back. Pretty soon the cannon fired and the balance of the crowd rushed in.

South of the bridge on the railroad south of Cherokee line, lieutenant and two soldiers, with fixed bayonets, came upon the train that had stopped there and ejected all persons from the cattle cars and took possession of the train. Afterwards there was a number of other cattle cars brought up. The soldiers ejected all persons from these cars (second arrival) and compelled them to cross this bridge, that their railroad tickets might be inspected by railroad employés; and while the bridge was alive with people the train began to move, and many had to get on the train from the outer ends of the bridge works—that is, from the sides, while the train was in motion, thereby endangering the lives of thousands of people. This outrage I attribute to the Rock Island Railroad Company. The lieutenant in ejecting the people from the train stated that the train would not be allowed to go up to the line until all had gotten off and showed their railroad tickets and their booth registration certificates. The train, when loaded, did not enter the Strip until a few moments after the gun fired. The train ran very slow up to the new town of Enid; in fact, loaded wagons beat the train to the town site.

I know nothing personally as to any troops allowing "sooners" to go into the Strip on any pretense.

Within my observation while at the booths and at the opening and at the land office at Enid several days, I know of no favors shown anyone by the soldiers with reference to the occupation of the Strip in any respect.

Prairie fires were burning before the opening and during the time and afterwards. As to their origin I have no knowledge. It is conceded by all that many "sooners" were in the Strip. It was rumored that soldiers set fire to the prairie to drive "sooners" out, but I know nothing of the fact.

55.

FORT RILEY, KANS., *October 2, 1893.*

Capt. Francis H. Hardie, Third Cavalry, being duly sworn according to law, states as follows:

No shots were fired by soldiers of my command at citizens; have no personal knowledge of citizens killed by soldiers.

Know of no bribes being received by soldiers or of any cases of drunkenness or cruelty on the part of the soldiers under my command.

There were no prairie fires in the section scouted by my command, but the escape from prairie fires was due to good luck, since a spark from a railroad train could have started one at any time.

In obedience to orders from Col. Forsyth, commanding, I left Fort Riley with my troop—1 officer, 43 enlisted men, 2 civilian teamsters, 48 horses, 12 mules—for Alva, Ind. T., which is situated 18 miles south of the Kansas line from the town of Kiowa City, Kans., on the Panhandle division of the Atchison, Topeka and Santa Fe Railroad, and there took station. The command left here August 30, 1893, and arrived at Alva the night of August 31, 1893.

I there received instructions from Col. Parker to remove promptly and absolutely all unauthorized persons, as well as all cattle found, from the district assigned me to scout, the northern half of a section of the Strip bounded on the east by a line running north and south through Kiowa, Kans.; on the west by a line running north and south through Fort Supply, Ind. T., and on the north and south by the limits of the Strip.

My command was stationed at Alva. I believe my district was clear of "sooners" at time of opening of the strip.

The homesteaders were orderly and well behaved with some few exceptions; the only cases where force was used is reported in my report to Col. Parker, which covers all the ground concerning the events connected with the opening.

The orders given to my troopers were those contained in Col. Parker's instructions to me. Home-seekers going in before the proper time were removed.

It is impossible for me to state from memory the number of persons, horses, and cattle put out of the strip before the opening. Reports were made to Col. Parker, giving the names and a complete description of them. Over five hundred head of cattle were removed, and more than fifty horses. Owing to the large extent of country I was ordered to patrol, my troop was divided up into small patrols from the main camp. These small camps at other points were located and scouting done from there also.

Everything went off nicely in my district except the four minutes start ahead of time.

Sworn to by Capt. Francis H. Hardie, at Chicago, Ill., October 14, 1893.

TROOP G, THIRD CAVALRY,
Camp near Alva, September 23, 1893.

Lieut. Col. DANGERFIELD PARKER,
Thirteenth Infantry, Commanding Troops in the Field,
Cherokee Strip.

SIR: I have the honor to report the following in regard to the operations of my troops on the day of the opening of this Strip.

My troop covered a length of line of nearly 25 miles, with Kiowa City as the central point. Sergt. Frawley, with a patrol, was at Sand Creek to start those congregated at that point; Corpl. Coughlin was with his patrol at the Medicine Lodge. Both of these congregating stations were east of Kiowa City. I was at Kiowa City with the main body of the troop. Corpl. Douglas was near a point about 15 miles west of Kiowa City; Private McPherson at a point about 5 miles west of the said city; First Sergt. Kaine and patrols had charge of the trains entering the Strip.

Those persons entering the Strip from Kiowa City were notified by printed circulars, one of which is inclosed with this report, of their limits, giving them 3 miles to line up on; but the distance not being sufficient, I extended the limit to 3 miles east, giving them in all a distance of little over 4 miles, which was ample.

The crowd was easily handled, every one seemed to be eager to do what was required (with some very few exceptions), good natured and orderly, but intensely eager.

My men were posted out in front at a distance from each other of about 500 yards, with orders to keep back the crowd until the proper time, to promptly repeat the signal for starting by firing their carbines in the air.

The people, as the time for starting drew near, were strung up with excitement and eagerness. At about four minutes before the starting time some one, either accidentally or on purpose, discharged a pistol in the crowd of horsemen near the railroad bridge, which started them. Seeing quickly it was impossible to stop them, I quickly fired my pistol, which was answered along the line promptly, so that the start was practically simultaneous.

Private Fairfox, of my troop, in front of whom the break was made, stopped the first man out of ranks and brought him back to the line and kept him there until all had gone; he could do no more. The killing of three or four would not have stopped the avalanche of people in their mad rush.

A report was circulated by people afterwards that the shot was fired by a negro, but I have yet to see the first person who saw the shot fired.

Before the run I rode along the line and cautioned the people against firing and explained to them the serious consequences which might arise from such an act.

I estimate that over 5,000 people made the run from my line, a large number coming from the east on account of the larger crowds further east.

The crowds at Sand Creek and Medicine Lodge mostly came from the east.

The noncommissioned officers at other points report everything going off smoothly.

First Sergt. Kaine, who had charge of the cars, found them loaded when they arrived at the line, but put everyone off and then carried out the instructions of the Secretary of the Interior; and his conduct has been honorably praised by the citizens. All the citizens of this town and all that I have met on the return here seem perfectly satisfied with the arrangements made in their behalf. The town is perfectly orderly and everyone seems contented.

I have no casualties to report among the citizens or enlisted men, whose behavior has been commendable in every respect.

The system of registration at the various points, while possibly may have worked some hardships, mainly due to the weather and lack of water in some localities, on the whole worked a great advantage to actual settlers in many ways.

Most the grumbling and fault-finding was done by land sharks, who were debarred the privilege of getting certificates not so much through a question of conscience as through the fear of being refused permission afterwards at the land offices to file their claims.

It is impossible in an affair of such magnitude as this opening turned out to be that some injustice may not have been done, hardships endured, accidents happened; but I am forced to believe that in this opening there was less lawlessness and intimidations practiced than in the opening of Oklahoma some years ago; and in this I am borne out by reputable citizens who took part in both.

Very respectfully, your obedient servant,

F. H. HARDIE,
Captain Third Cavalry Commanding Troop G.

Official copy:
J. M. LEE,
Captain Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

ORDER TO RAILROADS.

WASHINGTON, D. C., *September 11.*

Secretary Hoke Smith late this afternoon issued an order governing railroads on the Cherokee Strip:

"I hereby direct that no railroad train be permitted to enter said outlet during the six hours before said time of opening. After said time of opening for three hours trains will be allowed to enter said outlet only under the following regulations:

"(1) They must be for general use and not leased or chartered by any favored person or passengers.

"(2) The trains must be stationed at the edge of said land at least thirty minutes before the hour of opening, and shall not be entered by passengers earlier than thirty minutes before the hour of opening.

"(3) No one shall enter one of said trains as a passenger unless he holds a certificate from one of the booths.

"(4) The trains may start upon said land at any time after the hour of opening.

"(5) The trains must stop at every station and intermediate points not more than 5 miles apart.

"(6) The trains will be limited to speed to 15 miles an hour.

"(7) The regular local rate of passenger charges shall not be exceeded.

"(8) No person shall be allowed to board said trains after they enter the Strip.

"The United States officers in charge will give effect to this order."

Ordered by Col. Parker to carry out the orders of the Secretary of the Interior as published in the newspapers of September 12, 1893.

This taken from the Kansas City Times.

F. H. HARDIE,
Capt. Third Cavalry.

Official copy:
J. M. LEE,
Capt. Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

THE SIGNAL.

People having certificates to enter the strip will please line up by 11 o'clock tomorrow morning, Saturday, September 16, 1893, in a space 2 miles east of the city limits and 1 mile west of same. The signal to enter Strip will be fired precisely at 12 m to-morrow, Santa Fe time, by Capt. Hardie, Third Cavalry, from a point opposite the registration booths. This signal will be repeated along the line by soldiers. Those desiring to go by the railroad will please have their certificates in their hands.

F. H. HARDIE,
Captain Third Cavalry Commanding.

56.

STATE OF KANSAS, *Barber County, ss:*

B. W. Key, being duly sworn, says that he is a citizen and business man at Kiowa and was present at Kiowa at the opening of the Cherokee Strip; that the presence of United States troop was a benefit to the citizens; also to the many home-seekers who congregated at this point for the "opening," and that there was but one expression from all: That the Army officers and men who were stationed here were gentlemen and did much to promote peace and good order with the 7,000 or 8,000 people who were here from early in September until after the 16th inst. I have no personal knowledge of any "sooners," although some are reported in street talks.

B. W. KEY.

Subscribed and sworn to before me this 16th day of September, A. D. 1893.

WM. F. SMITH,
Justice of the Peace.

57.

ALVA, OKLA., *October 11, 1893.*

William Carter, citizen (G. A. R.), stated under oath as follows:

I was present at opening at Kiowa. The captain (Hardie) and troop of the Army on duty there conducted themselves in all respects in a creditable manner. Saw nothing to the contrary. At the land office here in Alva, I saw the troops here one day, and the same good condition was the rule; saw nothing out of the way.

Heard some talk at the booth near Kiowa of bribery or undue influence. It was talked, but know nothing of the truth of such report whatever; that was in regard to the soldiers.

Heard of no man who said he bribed a soldier.

No prairie fires.

58.

ALVA, OKLA., *October 6, 1893.*

S. L. Johnson, Postmaster at Alva, Okla., states as follows:

There was no complaint against troops stationed near Alva, Okla., *i. e.*, Thirteenth Infantry, Third Cavalry.

An occasional soldier might fill up occasionally, but taken all together they were a credit to the service and attended strictly to their own business.

The strip grass here was not burned.

My experience is that a good deal of howling is frequently done by people who did not get claims or town lots, and more often by people who want to saddle blame on the Administration in regard to the opening of the Strip.

I can only speak for Alva, and can truthfully say that in this neighborhood the opening was fairly and honestly conducted, and there were no complaints against the troops, Federal officials, or any one else.

59.

ALVA, OKLA., *October 12 1893.*

We the undersigned, citizens of Alva, Okla., beg leave to make the following statement. We were present at the opening of Cherokee Outlet to settlement, September 16, 1893, and have been residents of Alva since.

We beg leave to certify to the good conduct, efficiency, and discipline of the officers in charge, viz: Capt. Hardie and Lieut. Saffold, and of their command during the opening, and while in command at this place. We have no knowledge of bribery, corruption, or drunkenness by them or their command. The officers in charge used every effort to secure the safety and well-being of settlers, and no command could have given better satisfaction. They were kind, courteous, and obliging, and any report contrary to this statement is without foundation. There was no one injured; no prairie fires, or anything to mar the peace and quiet; and we take pleasure in making this statement, as we consider it due the officers in charge and the men in their commands.

John E. Hughes; J. G. Lemont; John Poston; J. P. Zimmerman, attorney at law; C. W. Hobbie; C. R. McAllister; C. G. Greever; Blare & Cormick, attorneys at law; G. W. Poindexter; L. L. Williams; Sample & Noah, attorneys at law; F. H. Shelley; T. G. Goodwin, attorney at law; James W. Bell; John A. Moe; Townsite Trustees, Alva, Okla.; S. T. Canico, notary public; A. C. Towne, attorney at law; John Paulson; Robert M. Hall; S. H. Oliver; S. H. Smith; B. C. Smithson; S. F. Shannon; Albert H. Andrus, attorney at law; C. W. Ellis; Miller & Dunn, attorneys at law; T. J. Womack, attorney at law; Mathew Jones; Erskine W. Snoddy, deputy United States marshal; G. H. Alexander, probate judge; O. C. R. Randall, county attorney; J. F. Ogbn, attorney at law; John W. Bishop, attorney; John Harper; John W. Boling, attorney.

A true copy.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General, Department of the Missouri.

60.

NOTES BY CAPT. LEE.

ALVA, OKLA., *October 11, 1893.*

C. H. Eldred, large cattle dealer, 17 miles west of Kiowa, said:

I do not approve of the method of opening; think the registration booths were unnecessary and of no practical value; tended rather to facilitate "sooners" than to prevent. One hundred people ran from line 17 miles west Kiowa. Conduct of troops was excellent. No bribes that I heard of.

ALVA, OKLA., *October 11, 1893.*

Saw citizens in post-office and elsewhere—farmers and all classes. They speak in highest terms of conduct of troops at Kiowa and Alva and on the line generally in this region.

R. A. Cameron, attorney at Alva, says in conversation that the conduct of troops was in all respects satisfactory.

61.

WOODWARD, OKLA., *October 10, 1893.*

A. Witzleben, manager of store, being duly sworn according to law, states as follows:

I know of no officer or soldier receiving bribes from "sooners," nor do I know of any person who bribed any officer, soldier, or other person.

I know of no soldier who can be charged with drunkenness or cruelty, coming under my observation.

I know of no settlers who have fallen victims to prairie fires.

I registered at the booth at Kiowa, Kans. Soldiers were in attendance and stationed around the booth, and everything was conducted in a most exemplary manner, the soldiers conducting themselves in a very creditable way.

I took the train (on September 15) to Higgins, Tex., intending to enter the Strip on September 16 from that point. At Higgins, also, I found the soldiers acting in a thorough, quiet, and disciplinary manner, and giving no one the slightest shadow of offense.

On the line of the Strip, as we came by rail from Higgins, soldiers were also stationed there, taking charge of the crowd which was on the train, and their conduct there was the same as stated before, giving not the slightest offense to any one, attending to their duties in a perfect manner.

62.

FORT RENO, OKLA., *October 7, 1893.*

Capt. George K. Hunter, Third Cavalry, being duly sworn according to law, states as follows:

I was first ordered to proceed to Wynoka, Ind. T., and then to Woodward, on the 13th of September, as my supply point.

My district was the southern half of the country lying west of a line running north and south through Kiowa, Kans., and bounded on the west by a north and south line through Fort Supply, Ind. T., and by the boundaries of Cherokee Strip on the north and south.

So far as known to me my district contained no "sooners" at time of opening.

The grass was not burned in my district.

The homesteaders were orderly and well-behaved, and no force was required to keep them in check.

My general instructions were to remove all unauthorized persons from my district, as well as all cattle found, and, before opening of Strip, to preserve the peace and guard United States property.

My line was 60 miles long. I did not give any instructions to fire upon persons entering the Strip before the proper time. I cautioned my men to be firm towards these people and to treat them courteously. The object was to keep the people out of the Strip without using violence.

Officers were authorized to make arrests for lawlessness, and call upon United States marshals or deputy United States marshals to make arrests in case of disturbance.

No case of my men receiving bribes was reported to me, and I don't think any occurred.

None of my men were charged with drunkenness or cruelty.

There was very little demand for land or town lots in my district.

About 1,000 people entered the Strip on this southern line of my district, which was about 60 miles. I gave the signal to enter the Strip by firing my pistol, at 12 noon, standard time. No effort was made by the homesteaders to start before the signal.

63.

CHICAGO, ILL., *October 13, 1893.*

Second Lieut. Kirby Walker, Third Cavalry, being duly sworn according to law, states as follows:

I was in command of Troop D, Third Cavalry, before and during the time of opening of Cherokee Strip.

I did not see any prairie fires in my district during that time.

There was no drunkenness nor disorderly conduct among my men during that time.

My district was clear of sooners at time of opening.

There was no complaint of bad conduct of my men by citizens or homesteaders.

There were very few people in my district to make the run. The land was very poor and not desirable.

There were only about 30 people on horses and in wagons who made the run from Higgins, and about 300 on the train.

There were no charges of bribery against any of my men.

The officials at the booth gave the sergeant in charge of detachment at the booth a paper stating that he had been efficient and performed his duties very satisfactorily.

64.

CHICAGO, ILL., *October 13, 1893.*

First Lieut. Isaac P. Ware, assistant surgeon, U. S. Army, being duly sworn according to law, states as follows:

I was on duty with Troop D, Third Cavalry, at Clear Creek, Ind. T.

I was present before and during opening of Cherokee Strip. I did not observe during that time any drunkenness among the men of the command.

I heard of no cases of enlisted men being bribed by "sooners" during that time.

There were no prairie fires in the section of country occupied by us.

I heard no complaints of bad conduct of troops towards homesteaders. The conduct of the soldiers during the time they were in the field was excellent.

The country was, to all appearance, clear of "sooners" at time of opening.

65.

FORT SUPPLY, OKLA., *October 10, 1893.*

Sergt. Henry Holden, Troop D, Third Cavalry, states under oath as follows:

I was on duty in connection with opening from September 2 until return to post on September 21. Was on duty at booth near Higgins, patrolling and guarding booth. No disorder of any kind. No bribes or other inducements offered to soldiers for favors. Over 900 registered at that booth. No "sooners" found by my men as they reported. There were no prairie fires in my vicinity.

Note by Capt. Lee.—I directed this sergeant to notify men of troop that I desired to see any man of the troop who was offered a bribe or other consideration to favor any citizen in connection with the opening. None came forward. Sergt. Holden submitted recommendations—copies attached, marked A and B.

A.

GENERAL LAND OFFICE,
September 15, 1893. (Booth in T. 20 N., R. 25 W.)

We, the officers of booth No. 4, Cherokee Strip, desire to give our frank and unsolicited tribute to Sergt. Henry Holden, of Troop D, Third Cavalry, and his men under him.

Isolated from the outside world, we were compelled to rely upon him for everything, and it gives us pleasure to testify to his soldierly qualities, his calm judgment, and unfailing courtesy.

None could have accomplished his onerous duties better, and he is an ornament to the high grade of service he represents.

FRED. L. HARVEY,
ALEX. HUNTER,
C. B. STRONG,
Officers in charge.

Compared with original and found to be a true copy.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General Department of the Missouri.

B.

SEPTEMBER 16, 1893.

This is to certify that Sergt. Henry Holden, of Troop D, Third Cavalry, U. S. Army, has faithfully discharged the duties assigned him by his commanding officer in keeping the "boomers" from entering the Cherokee Strip before the day of the opening (12 o'clock noon, September 16, 1893), in accordance with the President's proclamation of August 19, 1893; that he, with the boys under him, has carefully looked

after and protected the property belonging to the Government of the United States located in booth No. 4, in T. 20 N., R. 26 W., near Higgins, Tex., and we, the officers of the General Land Office, stationed at said booth, thank him and his men for their kindness shown to us; and we further say, that any request which he and the boys may ask may be granted, and that any favor shown them will be greatly appreciated by us.

CHAS. B. STRONG,
General Land Office, Washington, D. C.
FREDERICK D. HARVEY.
ALEXANDER HUNTER.

GENERAL LAND OFFICE, *September 14, 1893.* (Booth in T. 20 N., R. 26 W.) Compared with original and found to be a true copy.

J. M. LEE,
Captain, Ninth Infantry.
Assistant to Inspector-General Department of the Missouri.

66a.

FORT SUPPLY, OKLA., *October 10, 1893.*

Sergt. John M. Boisner, Troop D, Third Cavalry, states under oath as follows:

Was on duty with his troop in connection with opening south and southwest of Fort Supply, scouting and patrolling to keep out "sooners;" found none. Was at booth two or three days at time of opening; saw no misconduct of any kind. No bribes or anything offered to soldiers by citizens for any favors to my knowledge. No drinking at all among our men. Nearest saloon about 3 miles away. No prairie fires in that sectiou.

Sergts. F. P. Krarup, W. C. Hart, Corpls. John Regan, S. D. Mitchell, and James Sullivan, Troop D, Third Cavalry, all being duly sworn, stated that they were on duty south and southwest in connection with opening; substantiate same facts as Sergts. Holden and Boisner as to conduct of troops, no prairie fires, etc.

66b.

CHICAGO, ILL., *October 18, 1893.*

First Lieut. M. B. Saffold, Thirteenth Infantry, being duly sworn according to law, states as follows:

I was at Alva at day of opening; bribes were freely offered to myself and men at the land office for the purpose of getting in. Many represented that their families were sick and gave various other reasons. I am positive no bribes were accepted by my men, and that there were no complaints to that effect by the citizens. The fact that the people ceased offering bribes is the best evidence that none were accepted by the soldiers. Everything went off quietly and perfectly orderly.

67.

FORT SUPPLY, OKLA., *October 10, 1893.*

First Sergt. Michael J. Murphy, Sergts. G. A. Perkins, W. E. Dady, and Joseph Herzog, Corpls. Robert Jennings, Edmund De Lattre, and Michael Kelly, Company E, Thirteenth Infantry, all being sworn, stated under oath severally and collectively:

We were on duty at Alva (a land office now) with our company, E, Thirteenth Infantry, under command of First Lieut. M. B. Saffold, from 13th September until 28th September.

Prior to opening there were no special duties to perform beyond camp duties. On day of opening and after that guard details did duty at land office, preserving order and seeing that men got into land office in turn. Not a very large crowd there.

First Sergt. Murphy and all other noncommissioned officers say that on day of opening Lieut. Saffold warned all noncommissioned officers and men of company against receiving any money or consideration of any kind from any citizens in connection with the duties.

Sergt. Herzog says some ladies were admitted to file by vote of the people in line ahead of others, but there were no bribes offered by citizens or solicited by soldiers.

No drunkenness among soldiers or citizens. No saloons there; one was started and was closed up. No prairie fires in that region. No misconduct; best of feeling between all there, both soldiers and citizens.

We were publicly complimented by paper there, the Alva Pioneer. Clipping herewith.

All, except First Serg. Murphy, who was on duty at camp all the time, and Corp. De Lattre, say we called some back numbers of persons who were not there in line when their names and numbers were first called. They were, of course, passed, and lower numbers necessarily called and admitted. Then we afterwards, by order of Lieut. Saffold, called all of the back numbers, for one and a half days, about, and they were admitted. This gave some dissatisfaction among the higher numbers who were waiting their turn. A public notice was posted on the door of the land office that for Monday afternoon and all of Tuesday (the second Monday and Tuesday after opening) back numbers would be called. This was all public and open, and no favor was shown to any back number over another, all being taken in rotation. The people had been numbered by noncommissioned officers, and their names and numbers taken and recorded on a list. After Tuesday, the 26th of September, no more back numbers were called.

Corp. De Lattre was on duty there forenoon of Wednesday, the 27th, when the company took the train en route to post.

No prairie fires.

[Alva Pioneer. Established September 16, 1893.]

ALVA, OKLA., Friday, *September 22, 1893.*

The officers and men of Company E, and Thirteenth Regiment United States infantry, stationed at present in this city, are a body of as fine men as are in the service. All citizens commend their soldierly appearance and gentlemanly manners.

68.

ALVA, M COUNTY, OKLA., *October 11, 1893.*

F. P. Alexander, register land office, states under oath as follows:

I arrived here Monday evening before the opening. Soldiers came here on Wednesday, I think—the infantry, I mean. Capt. Hardie, with his cavalry, was already here and camped about 2½ miles from this town site.

The soldiers, infantry, under Lieut. Saffold, were on duty at the land office preserving peace and perfect order and regularity during the time they were here. They left about ten days ago. In conduct they were courteous, efficient, and bore themselves with propriety. Lieut. Saffold was attentive and energetic in his duties. Some little talk, on the outside, of apparently irresponsible persons of undue influence being brought to bear on the soldiers. No specific charges were made and did not demand any investigation, as everything was peaceable and in an orderly manner. Heard of no cases of disorder or abuse nor drunkenness while men were on duty.

No prairie fires in this vicinity.

F. C. Langley, deputy United States marshal, having heard foregoing statement read in his presence, under oath fully corroborates it and says further:

That there was a rumor that some soldier was taking bribes. I went to Lieut. Saffold and he told me to inquire into it, and if there was any ground for it he would take the stripes off of any man that was engaged in it. I made diligent inquiry and found there was nothing substantiated, and so reported to Lieut. Saffold. The soldiers, in all their duties, were courteous as men could be under the circumstances.

69.

FORT SUPPLY, OKLA., *October 10, 1893.*

Capt. Harry G. Cavenaugh, Thirteenth Infantry, being duly sworn according to law, states as follows:

My command was stationed at Woodward, the county seat of N County, Okla., where a land office is situated.

List of names of railway employès and postmaster's and mail contractor's employé was turned in by me to the land office officials.

After the hour of 12 m., upon the arrival of the people at the town site and its vicinity, no force was required to keep them in check. They formed the most peaceable, quiet and orderly community that I have ever seen under like circumstances.

There was no chance for offering bribes; no force of any kind was required; no cruelty of any description occurred.

There being no liquor permitted to be sold under the Territorial laws for at least two weeks after the opening, I had but two men of my command slightly under the influence of liquor and confined to the camp; this happened several days after the opening.

There were no United States marshals to my knowledge in my vicinity. I had under my immediate command, for two days after the opening, 15 men at the land office for the purpose of preventing disturbances and to see that the first to arrive had first access to the office.

I was informed by many citizens on my departure that they were sorry to see us leave, and that in, their opinion the presence of troops had a very beneficial effect and a tendency to prevent disorder, as the cowboy element largely predominated for the first few days.

I was present before and after the first opening of Oklahoma and in command of the troops stationed at Guthrie from May 6, 1889, until their presence was deemed no longer necessary, June 15, 1891. I was present in a private capacity at the opening of the Cheyenne and Arapahoe country, and as far as my personal knowledge goes as to the conduct of troops and citizens, the recent opening compares favorably with either of them.

70.

FORT SUPPLY, OKLA., *October 10, 1893.*

First Sergt. Emile Seneca and Sergts. Thomas Kelly and George B. Stevens, and Corp. George F. McGurren, Company B, Thirteenth Infantry, being all duly sworn, state under oath, severally and collectively:

Almost the whole company, about forty men, was on duty at Woodward, or in the vicinity of the United States land office there. We were under Capt. Cavenaugh's immediate command. There was no disorder of any kind; the best of feeling prevailed; no bribery of any kind that we heard of, nor any offers of that kind to any of us or our men, so far as we know or heard. Some days after the opening two of our soldiers got slightly under the influence of drink.

There were no prairie fires that we saw.

The citizens expressed regret at our leaving there to return to post. Everything was harmonious and the best of feeling prevailed among all concerned.

71.

WOODWARD, OKLA., *October 10, 1893.*

Wilson M. Hammock, register, and D. H. Patton, receiver, being duly sworn according to law, state as follows:

The questions, "Do you know any officer or soldier who received bribes from sooners?" and "Do you know any person who bribed any officer, soldier, or other person?" we answer emphatically, No, never heard an intimation of such in connection with this district.

The question "Do you know any soldier who can be charged with drunkenness or cruelty?" we answer in the negative, and take great pleasure in commending the gallant bearing of the soldiers under Capt. Cavenaugh during the opening, as well as their gentlemanly, courteous conduct to all, from the humblest homeseeker to the officers in charge of the land district.

We have heard of no prairie fires in this region.

72.

POST-OFFICE WOODWARD, N COUNTY, OKLA., *October 10, 1893.*

James T. Hickey, postmaster, being duly sworn according to law, states as follows:

I do not know of any one receiving bribes; nor have I heard of any complaint whatever against the troops at this place.

I opened up this post-office the 8th of April last. I have been here ever since, having met all of the old settlers, railroad men, Government employés, and those doing business here; also the cattlemen passing to and fro with their stock and for shipment from this place; and I can state positively that at no time before or since the opening of the Strip have I heard of any complaint against the United States troops stationed here under the command of Capt. Cavenaugh. On the contrary, I am of the opinion that all here, old and new settlers, without exception, would join hands in praise of the acts of the captain and his splendid company.

73.

WOODWARD, OKLA., *October 10, 1893.*

Clarksen & Beutler, being duly sworn according to law, state as follows:

I know of no bribery or attempted bribery, nor of any drunkeness of officers or soldiers.

The conduct of officers and soldiers was first class in every respect.

I have been a resident here for the past six years.

74.

FORT SILL, OKLA., *October 8, 1893.*

Capt. William M. Waterbury, Thirteenth Infantry, states as follows:

My station was at the land office of Enid. There was no force used or needed to keep the homesteaders quiet. No disturbance or bloodshed occurred while I was in cómmand there.

Only one case of bribery came to my knowledge. Private William Horne, of Company C, Thirteenth Infantry, was accused of receiving a bribe of $10. When this case came to my knowledge I had the man confined and surrendered him to civil authority upon proper warrant, September 25, 1893.

75.

ENID, OKLA., *October 8, 1893.*

H. H. Jenkins, of Enid, Okla., stated under oath as follows:

I saw a soldier who was guarding well near land office about a week after opening. He was armed, gun and bayonet. He was maudlin drunk, and had a bottle of whisky in his pocket—had just put it back after offering a citizen a drink.

I heard that a soldier on duty at the well made an exhibition of himself by disgraceful conduct—carousing and kissing a well-known reputed prostitute—this in broad daylight in the presence of many people.

76.

ENID, OKLA., *October 10, 1893.*

Robert M. Patterson, postmaster at Enid, Okla., states as follows:

As to the conduct of the soldiers stationed here, both before and after the opening of the Strip, I neither saw nor heard of any drunkenness or disorderly conduct, nor heard of any complaint whatever against them.

The Strip was on fire in every direction during the week. I was here preceding the opening, but I never heard it charged to any particular individual. Everything was so dry there that only a spark was sufficient to ignite it.

77.

CAMP UNITED STATES TROOPS, PERRY, OKLA., *October 4, 1893.*

Capt. Benjamin H. Rogers, Thirteenth Infantry, states as follows:

I arrived here with my company on the 14th of September. The grass was mostly all burned then. It was extremely dry weather and the supposition was then that it was done by sparks from the locomotives. A well-believed rumor was in circulation that it had been done by people who were to ship forage into the country to sell and who had sent agents in at night to do the work.

I had no drunkenness amongst my men during the opening, and did not until they were paid some two weeks later.

Twenty-four "sooners" were arrested by me on the morning of the opening, they being hidden in the several ravines running through the town site of Perry. They were held until the rush was over and then released.

The town was opened in a very orderly manner. There was no general disturbance that required the interference of troops. One man, a supposed murderer, was arrested by me and held all night until it was found that the man he assaulted was not in as precarious a condition as first supposed, when he was released after ascertaining his name, address, etc., which information was turned over to the chief deputy United States marshal on duty at Perry.

The names of the twenty-four "sooners" arrested were turned into the land office, with the time and place of their arrest noted.

My orders when I came here were from the commanding officer of Fort Sill, Okla. They were to proceed to Perry, Okla., and camp there; to coöperate with the civil authorities to preserve the peace; to protect the United States land office and United States post-office, and all Government property when necessary. General instructions covering all the points in the President's proclamation were received by me from Lieut. Col. D. Parker, Thirteenth Infantry, commanding troops in the Strip, on the 19th of September—three days after the opening. They had been sent in ample time, but blocked up in the mail somewhere. In the absence of these special instructions, I used my own judgment regarding the part the troops were to take at the opening.

I did not place any men outside of the land office to run the line; and that duty was performed by deputy United States marshals. I visited the land office frequently to see that order was preserved, and on no visit did I see anything but an orderly crowd. I kept my men well in hand in case of disturbance; and gave assurance both to the register and receiver that I was ready to move them to the land office at the slightest sign of trouble. That has been done up to the present day; all men being required to remain in camp during the open hours at the land office, unless special permission is given to be absent.

No complaints have been received by me as to any wrongdoing of any of my company since our arrival.

78.

PERRY, OKLA., *October 5, 1893.*

J. C. Scruggs, sheriff of P. County, Okla. (county seat, Perry), stated under oath as follows:

I came here on Saturday, the 16th of September, from the south line—starting at 12 o'clock about 9 miles from Perry. I entered on duty as sheriff immediately after arrival here. Capt. Rogers turned over to me a man he had in arrest for knocking a man on the head who was thought to be murdered.

The conduct of the troops here was good in every respect, doing their duty thoroughly and harmoniously. Have heard no complaint against them, nothing as to bribery or misconduct. I understood they held quite a number of "sooners" and held them until after the opening. Prairie fires were burning in every direction; I crossed three fires on my run. As to who started the fires, I do not think the soldiers had anything to do with starting the fires or favoring or helping the "sooners" in any respect.

I started half a mile west of Orlando to make the run. Capt. Johnson's men were there. A false start was made to the west of me about one and a half minutes before the time. The soldiers got out of the way, as it was useless to try to stop the crowd. No shots were fired there at all. The conduct of the troops on the south line was excellent and efficient in every respect, both at the booths and at the start.

Many "sooners" got in, but the soldiers could not help that. All the soldiers in the country could not have prevented that. The feeling towards the soldiers among the citizens is good. No complaints whatever that I have heard; have heard of no bribery of soldiers either here or on the south line.

79.

PERRY, OKLA., *October 5, 1893.*

Harry Colton, farmer, of Logan County, Okla., states under oath as follows:

I have been here since about September 12, 1893; was here under orders of the Department. Capt. Johnson was here with his company of cavalry and relieved, September 14, by Capt. Rogers with the infantry company. Capt. Johnson and his company was scouting, clearing country of intruders. Conduct of his men was excellent; saw them frequently. Do not know, nor have I heard of any of them being bribed or otherwise neglecting their duty. No drunkenness, nor mistreatment of any citizens. Prairie fires were general, burning in every direction. Saw many between here and Arkansas City night September 14, when returning to Perry. Am satisfied they, or many of them, originated from railroad engines—wind blowing—country dry. Fires were burning where there were no troops—not originated in any way by troops so far as I know or ever heard.

On the 14th and 15th of September, Capt. Rogers, on my reporting and others, sent out men and arrested "sooners" and brought them and held them until after the opening. They were, to the best of my knowledge, not turned loose until some time in the afternoon of the opening. Capt. Rogers and his men were diligent in their duties. In their conduct they were kind and courteous to the citizens, and to my knowledge did their duty in a gentlemanly manner throughout. I was fully familiar with the situation here and around here. Their presence was highly beneficial in the interest of peace and order.

80.

PERRY, OKLA., *October 5, 1893.*

T. M. Richardson, banker, at Perry, Okla., being duly sworn, stated as follows:

I am in business here as banker. Was present at opening here at noon on September 16, 1893. Found Capt. Rogers here with his company of infantry soldiers; have been here since, and am fully conversant with the action of the military. Their presence here was in the interest of peace and good order. The opening and settlement of this place and adjacent country was peaceable and orderly—I think largely due to the presence of the military. The conduct of officers and men was in all respects proper and commendable. There was no misconduct nor drunkenness on their part; no outrages nor abuses of any kind towards citizens in any respect to my knowledge, and I have been in a position to know what was taking place. The opening here was in the highest degree successful as could be expected, considering the excitement necessarily attending the sudden rush and settlement which took place. There were, doubtless, many "sooners" in the country, which it was impossible to prevent. The military here, I understand, arrested and held a number of "sooners" until after the opening, without conflict or personal harm to anyone.

There were prairie fires burning all over the country at time of opening. As to their origin I have no knowledge, and know of nothing connecting any of the soldiers with these fires.

81.

PERRY, OKLA., *October 5, 1893.*

Dick T. Morgan, lawyer, of Perry, Okla., stated under oath as follows:

I came here on September 16, on second train. Have been here since, except Sundays; have neither seen nor heard of any misconduct on part of troops here. Have heard of no complaints as to any abuse of citizens in the performance of their duties. So far as I know they performed their duties here properly.

By general report, there were many sooners came into this section of country. In my opinion, it was, and would be, impossible for the troops to keep out sooners. I have heard of troops arresting sooners—whole squads.

I was at the booth on the line near Arkansas City two different days, as I recall, during registration; also, on two different days, at booths near Orlando, south of here. So far as I observed, there was no misconduct at either place on the part of the troops I saw, and they appeared to be doing their duty properly.

W. S. Morris, of Perry, Okla., fully corroborates, under oath, statements of others as to good order and proper demeanor of troops here, and marked courtesy of officers, Capt. Rogers and Lieut. Newman, towards strangers making inquiries.

82.

PERRY, OKLA., *October 5, 1893.*

E. E. Westervelt, railroad agent at Wharton, being duly sworn, according to law, states as follows:

I have been agent at Wharton over a year; was here at the opening and prior and since.

Capt. J. B. Johnson came here about the 1st of September with about 60 men. He was clearing this part of the Strip of intruders, getting ready for opening. He put out sooners. He remained here until about a day or two before the opening. The conduct of the troops was good; no outrages or abuses complained of. They probably brought in four or five parties at different times; they were arrested or started out of the country.

They arrested a saloon-keeper from Oklahoma City, dressed in old soldier's clothes. He was not a soldier; they held him here until after opening. Capt. Rogers came here about two days before the opening, and Capt. Johnson left soon after his arrival.

I have heard of nothing wrong, nor of any misconduct on the part of these men.

On the day of the opening there were any number of sooners here—several hundred. I understood, by common talk, that there were deputy marshals who had been bribed not to arrest these sooners—not to have them taken under guard of the soldiers. There were twenty-five or fifty men who were on the town site by some kind of permission before the opening, and immediately after 12 o'clock many of them went right onto lots. By 12:20 all the center of Perry was taken—hundreds of men in here then. The nearest line to run from was from 8½ to 9 miles south.

The troops appeared to be taking no part in the matter. I was here about 12:10, and so far as I saw the troops did nothing to prevent the sooners taking lots. No sooners came here until noon; they were all around in the brush waiting for the crowd to commence to come in.

The deputy marshals appeared to be keeping all off until noon, except those who seem to have had permission to be here at that time, who were on the town site.

The troops had fifteen or twenty sooners in the guardhouse about half past 10 the morning of the opening. There was no cavalry here, only infantry, and it was impossible for dismounted soldiers to keep such a large number of sooners out of the country around the town site. Deputy marshals seemed to be scouring the country; the troops appeared to be only guarding the sooners brought in by the deputies.

As to bribes given to soldiers, heard no complaints of that. I have seen no misconduct of the troops at any time since they have been here.

There were the usual prairie fires burning at this time of the year. As to being caused by soldiers, heard no such accusation. Know nothing as to origin of fires.

Heard of no cases of any abuse or brutal treatment of citizens by soldiers.

When cavalry was here detachments were sent out scouring the country, putting out cattle and intruders.

Capt. Johnson and Lieut. Ryan and their men appeared to be energetic and vigilant in the performance of all their duties.

83.

PERRY, OKLA., *October 5, 1893.*

J. E. Malone, register land office at Perry, Okla., stated under oath as follows:

I have been on duty here since the night of September 15; have seen the troops daily. They have attended to their duty sober and no complaints whatever have come to my knowledge concerning them or their conduct in any respect. They have proffered their assistance to the officials in my department wherever required.

84.

PERRY, OKLA., *October 5, 1893.*

J. H. King, receiver land office at Perry, Okla., stated under oath as follows:

I have been here on duty since the 14th of September, about noon, and within the limits of my observation the troops on duty here under Capt. Rodgers have performed their duties fully, and have conducted themselves properly in every respect; nor have I heard of any complaints against these troops of any misconduct what-

ever, and I knw that on the 15th the lieutenant, with a file of soldiers, hunted the gulches adjacent to the town for sooners. I saw him go out and come back, and so did the chief clerk of the land office, Davis, we being the only two men connected with the land office on the ground. I know nothing of the conduct of the troops elsewhere except from rumor. My engagements and my office have precluded my hearing things that I might otherwise have heard. I speak from my personal observations.

Note by Capt. Lee.—Mr. King stated in conversation that a party whom he considered reliable told him that he had had information that the captain or lieutenant in command at the opening near Arkansas City had received a bribe of $3,000 to let parties run from the south side of Chiloccco reservation, 3 miles inside of the strip.

(See Gilbert's affidavit or sworn statement.)

85.

TO WHOM IT MAY CONCERN.

This is to certify that I was upon the Perry town site, in Oklahoma Territory, before and after the opening of the Cherokee Strip (in the capacity of boarding boss); that so far as my observation and knowledge goes the conduct of both officers and privates was courteous and gentlemanly.

T. D. HANCE.

Subscribed and sworn to before me this 7th day of October, 1893.
[SEAL.] H. W. BARKLEY,
Notary Public.

My commission expires August 24, 1895.

Official copy.

J. M. LEE,
Captain, Ninth Infantry,
Assistant to Inspector-General, Department of the Missouri.

86.

PERRY, OKLA., *October 5, 1893.*

Mr. C. P. Drace, postmaster at Perry, Okla., stated under oath as follows:

I have been here since about the 8th of September, 1893, as postmaster. Have heard no complaints about the troops whatever, neither as to bribery, drunkenness, nor misconduct. The cavalry were scouting and attending to their duties thoroughly. No complaints against the infantry as to any of these matters. Everything passed off quietly as far as I know. The troops had nothing to do with starting prairie fires, as far as I know. Generally understood that the fires were, as usual at this time of the year, caught from trains. Capt. Johnson took in all the sooners he could find, and the infantry did all they could. The feeling of citizens is good towards the troops.

Note by Capt. Lee.—Parties in Perry say that the postmaster, Drace, immediately after opening, 12 o'clock, at Perry, was seen dragging a tent from his office; and his brother held down a good lot immediately after 12 o'clock.

87.

CAMP OF UNITED STATES TROOPS,
Perry, Okla., October 9, 1893.

Capt. Benjamin H. Rogers, Thirteenth Infantry, states as follows:

I arrived at Wharton, Okla., on the morning of Thursday, the 14th of September, with my company, G, Thirteenth Infantry, and went into camp on the railroad right of way. On that day I visited Perry town site, a mile distant, to pick out a camping ground, and found no one on the town site but the postmaster, who pointed out block B, which had the Government well bored in its center, and said he thought

that it was reserved as a public park. I returned to camp and that afternoon was visited by a Mr. Mora, who stated that he was in the employ of the Government and had been sent to Perry to survey the town site.

He showed me a map which had B block marked as a public park reserve, and which he stated was in accordance with his survey. On the next morning I moved my company and camped them as marked in ink on map (herewith). My left line of tents were in a 50-foot alley and my right line on the rear of the lots on south side of block B. Officers' tents were mostly in Seventh street. The lots on block B run north and south, therefore my occupation of the block presented no obstacle to the people who wished to take their chances in staking out lots there. The next day, at about half past 12, the rush commenced, and the first intimation I had that B block was not a reserve was about a quarter of 1 o'clock, when I saw Mr. Mora himself show a person where to place his stakes on that block. I, in the meantime, had advised several people that they were wasting time by staking out lots in that block, as it had been reserved as a public park. I instructed my men to do the same thing, and Ex-Governor Swineford, special agent in charge, who was standing by my tent advised them the same.

I immediately accosted Mr. Mora and asked him what he meant by advising people to locate on that square, and he gave me some evasive answer. Shortly after I again saw him locate another person on block B, and again asked him what he meant, and he then told me that block B was not reserved as a park, but was open to settlement, and pulled a blue map out of his pocket, which, he said, was the latest map from Washington, and which placed the public park reserve at the other end of the town, east of Cow Creek. I asked him how long the map had been then in Perry, and he replied "a day or so," but he had no time to notify me. From that time I and my men notified every one interested that the block was open to settlement.

I understand that the first map made out at Wichita and sent on to Washington was not approved in so far as having the park reserve adjoining the court-house square, as it would injure the city to have so much open space in one place; but the corrected map was, according to Mora himself, there in ample time for me to have been notified and to have moved my company over to the Government acre on the court-house square. But I charge that Mr. Mora, for reasons best known to himself, kept the map in his own possession until his scheme was carried out. My reasons for camping on the supposed park reserve instead of on the court-house square were that the Government well had been sunk on the park reserve, and as it comprised the only water fit to drink in that section of the town I knew I would have to guard it and wished to camp close to it for that purpose.

On Saturday, one week after the opening, I went to Guthrie, Okla., and made a full statement of the above facts to Governor Swineford, special agent in charge, who informed me that he would report them to the Interior Department, at Washington.

One man, a surveyor by the name of Coulton, informed me that he saw Mr. Mora stake out about six lots on the north side of B block and put people on them. Mr. Coulton said he would make affidavit to this.

The map herewith is the same as the one shown me on Thursday evening by Mr. Mora.

88.

PERRY, OKLA., *October 5, 1893.*

W. F. Harn, attorney at law, explains in regard to the block occupied by troops at time of opening; exclusion of people from same, and subsequent occupancy by deputy marshals and others:

It is reported that a different plat was distributed here from the true plat, which was believed to have been done designedly to mislead people and favor others.

89.

FORT RILEY, KANS., *October 2, 1893.*

Farrier John P. Burke, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty with the troop at recent opening of Strip; was on duty at booths for about four days near Chilocco reservation. Sergt. Edward Murphy was in charge. I was asked to let a man into the booth ahead of his turn. I was told by him I would not lose anything by it. I was not offered any special sum. I told him I could not do that under any circumstances. Could not let anybody go in

before his turn. I was riding along keeping the line in order. He came to me separately. I could not see any way that a man could have gotten in ahead without trouble, even if anyone was disposed to let him do so. There was no back or side entrance, there was no way to enter except by the front. Captain and leaders of squads of 20 men were at the entrance watching. Everything went off peaceably and quietly so far as I know.

Fires were abundant; appeared to be started in all directions. We saw a party of citizens start a fire near mouth of Turkey Creek. The parties got out of our way so we could not get them; escaped across the Arkansas River. Did not notice any fires particularly before the opening.

90.

FORT RILEY, KANS., *October 2, 1893.*

Private Charles W. Lennox, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty at opening of Strip near Arkansas City. I was on duty at booths from the night before the booths were opened until two days after the run on the 16th. The booths were kept open several days after the opening for registration I think. On Monday night before the opening I was walking post; there was a man approached me right at the booths and offered me a bribe of $1 apiece ($4) for himself and three other men to register the next day. I refused the bribe and thought nothing more of it at that time. On next Thursday I was mounted then on the line and the men told me that there was a citizen offering to procure their certificates for them for $2 each, and they showed me the man. I found the man "working" a man at the time. I took him (the man that was working the other) and started for the booth to report him to the proper authority—the Government clerk, Mr. Gallagher. The road was blockaded and the man got away from me and disappeared. I saw no more of him.

People orderly. No severity by troops. Saw no drunkenness by men on duty.

I heard of no man who did accept a bribe there, citizen or soldier. Know nothing about who started prairie fires. Know nothing of any of the reported killings or deaths by burning, except from hearsay.

91.

FORT RILEY, KANS., *October 2, 1893.*

Wagoner Timothy Costello, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty at the recent opening of the Cherokee Strip. I was on duty at booths near Arkansas City. I was dismounted a part of the time right at booth, and passing the men in to be registered. On the second or third day after beginning registration 3 men beckoned at me from rear of booths, and I went out to them and they asked me if they could register. I told them, no, they would have to take their place in line as well as the rest of the men. One of the men put his hand in his pocket and pulled out $10, and says that is $5 for each of us, if there is any possible way of letting us in we will let you have this much. I says, "No, sir; you'll have to move out of here; I am not here for that purpose." They hesitated about moving, and I told them if they did not go I would make them go. It was hardly possible for any one to get in ahead that way without raising a row.

Saw prairie fires burning all around; don't know how or by whom started. Registration was peaceable and orderly.

Know nothing of outrages, except hearsay.

One man offered me a bottle of beer in rear of booth tents, but I refused it.

92.

FORT RILEY, KANS., *October 2, 1893.*

Private Jacob H. Mose, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty at opening of Strip near Arkansas City. I was on duty one night at booths before they began registering. The day of the opening, on the 16th of Sep-

tember, I was patrolling east of the railroad near the Indian school reservation on the 100 feet where the people formed. About half an hour before signal was fired I was near east corner. I met a short, stout man, about 50 years old, who asked me if $25 would induce me to hold a claim for him. I told him it would not, because it would not pay me, as I had to do my duty. He was in earnest, I believe, as he reached into his pocket as though he was going to give me the money. He said he was an old soldier himself, and he knew how it was that I had to do my duty. I told him yes; he ought to know what the penalty would be to disobey an order. He said he could raise the money if he could get the claim he wanted. I told him I could not possibly do it, as I had to be there on duty.

Saw prairie fires burning all around; don't know how or by whom started. Registration was peaceable and orderly.

Know nothing of outrages, except hearsay.

93.

FORT RILEY, KANS., *October 2, 1893.*

Private Herbert E. Mackey, Troop C, Third Cavalry, being duly sworn according to law, stated as follows:

I was on duty at opening of Strip near Arkansas City. I was on detached service patrolling the line, and also in the Strip with Sergt. Ihling before the opening, and on that day. I was at Bitter Creek the day of the opening. About the 14th of September a man told me he would give me $150 if I would take some stakes with his name on them and drop them or stick them in a claim near the Shakaskia Creek or River, southwest of Arkansas City. I did not get this man's name. I told him I did not do that kind of business. I had a man offer me $5 just to let him ride out a few hundred yards in the Strip to look at the country that was between Bitter Creek and Chilocco school reservation, several days before the opening. Several others talked the same way. I declined all their offers, and told them I was on duty.

I saw many prairie fires. Was told by a party that a squaw man started some to sell his hay, some 500 tons. I have no knowledge myself of this. I heard about the killing; know nothing. No special bother where I was stationed. No drunkenness except among some citizens. We put out "sooners;" had no serious trouble at all.

94.

POND CREEK, OKLA., *October 8, 1893.*

Corp. William H. Burns, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I left Pond Creek with two wagons to escort a party of "sooners" out of the strip. About 12 o'clock we stopped for dinner (before opening); one of the party told me if I would let him get out of my sight he would give me $10. I told him he would have to go with me to Caldwell, Kans. He said he might make it worth more to me if I would let him go. I refused his offer and took him to Caldwell, Kans. This man's name is E. F. Norris, of Marquette, Kans.

95.

POND CREEK, OKLA., *October 8, 1893.*

Private Frank McCue, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I was on duty at the bridge near the water tank of Rock Island Railroad on night of 15th of September. The train had stopped at the station near the tank, and a man came up to me. He offered me $10 if I would hide him so he could get a good claim, and he said if he did get one he would make it all right with me. I laughed at the man. I told him I could do nothing for him. I then went up to the bridge and left him. The man got on the train again.

96.

POND CREEK, OKLA., *October 8, 1893.*

Blacksmith Jacob Renz, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I was on duty at Cameron, Kans., at the booth. A man came to me and asked me to get him registered ahead of those in line; that he had just come in on the train and wanted to get away. I told him that I could not do anything for him. I was under orders of Capt. Dodd and couldn't do anything in that line. He had several ladies with him, and asked me if I couldn't get one of them registered at once; he would give me $10. I told him I could not do it. I do not know this man's name.

97.

POND CREEK, OKLA., *October 8, 1893.*

Sergt. Thomas R. Gray, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I was on duty before and during opening of Cherokee Strip, and had charge of a guard at the booth at Cameron, Kans. About the 15th of September a man came to me and said he would give $100 if I would let him pass through the line I was guarding, for the purpose of getting into the Strip to secure a claim ahead of the time. I said there was no use for his trying and rode away. I do not know his name. Another man remarked in my presence that he would give $10 for a suit of soldier's uniform. I suppose he wanted it for the purpose of getting into the Strip under the guise of being on duty as a soldier.

I reported to my company commander the fact that a bribe had been offered to me of $100.

98.

POND CREEK, OKLA., *October 8, 1893.*

Sergt. George E. Semple, Troop F, Third Cavalry, being duly sworn, stated as follows:

I was on duty with my company before and during opening of Cherokee Strip. I had charge of a detachment on the line. On the 3d of September I was ordered out to scout the country to look for unauthorized persons. I found one man by the name of Arnett, of Anthony, Kans. He had about 400 or 500 head of cattle. He was within 10 miles of Cameron, and in the Strip, and he said rather than drive his cattle to Pond Creek he would give me $100 to take his cattle across the line, or leave them there and take him to the commanding officer. I told him he would have to go to the commanding officer with his cattle, and I brought them all in the next day. I refused the offer of his $100.

99.

POND CREEK, OKLA., *October 8, 1893.*

Corpl. Robert Johnson, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I was present and on duty with my troop before and during opening of Cherokee Strip. On the evening of the 15th September I was approached by a stockman and he told me if he could wake up at a certain place in the Strip after 12, noon, next day, he would give me $100. I refused his offer. I then reported this circumstance to my company commander, Capt. Dodd. At the time this man made me this offer I was going among the people on Big Sandy Creek explaining how the start was to be made the next day, when this man called me to one side to make the offer. I do not know his name. I had charge of the starting of the line at that point.

100.

POND CREEK, OKLA., *October 8, 1893.*

Private John Winterbottom, Troop F, Third Cavalry, being duly sworn according to law, states as follows:

I was cooking at camp by the railroad near the station and town site of Pond Creek before the opening of the Strip. There were three men in a wagon came to me and said they would give me $100 and a gallon of whisky if I would hold down a lot at Round Pond until 1:30 p. m., September 16, and an additional $100 for another lot. I declined the offer. Round Pond is about 2½ miles south of Pond Creek and is the Government town site. I believe these men's names are Samuel Marshall, John Worcester, both from Safford, Kans.

101.

ENID, OKLA., *October 8, 1893.*

W. E. Thralls, of El Reno, clerk at Enid, Government town site, stated under oath as follows:

Was present at opening on south side Hennessey booth. About the booth about two days, Monday and Tuesday, before opening. As far as I saw there was nothing wrong among the troops there. Saw but few there; heard general charges all along about soldiers being corrupted or exacting money to put people in ahead at booth. No misconduct that I saw on part of troops.

Know nothing of origin of prairie fires. Heard it said that soldiers set fire to prairie to keep "sooners" out; heard it currently reported that soldiers would put "sooners" out who would not put up to stay in.

I made run on 16th; came to Enid land office same day, in evening. There were soldiers here on duty at that time. About dark heard a soldier, at well near land office, cursing and making use of foul and vile epithets towards citizens. He seemed to be guarding the well.

Judge J. L. McAtee, of Caldwell, was with me; he went to get water, returned without it, and said, "They're fussing over water"—that he refused to let W. O. Barnett, of Wellington, Kans., have water. Judge McAtee said Barnett told him he saw this soldier receiving money from others for water.

On Monday at Enid, Okla., C. E. Wilson, lawyer, said a soldier offered to pass him through line into Strip night before opening, also his brother-in-law, Dodson, for $20, and to give them the cue or password, so other soldiers would not disturb them.

Upton Kitzmiller lives 3 miles east of El Reno; said to me that about 7 miles west of Hennessey a soldier—a sergeant, he thinks—offered, for a consideration, to pass him in the night before the opening. He declined. Soon afterwards he saw the soldier talking to Joe Lyon, a brother of Dick Lyon, a sergeant of Fifth Cavalry. Afterwards he (Joe Lyon) was found on a splendid claim with a spring in it.

I have no personal knowledge of these matters—all indirect. There were other cases, but they are too vague for me to state anything about them.

102.

ENID, OKLA., *October 8, 1893.*

T. J. Sanford, attorney at Enid, Okla., states under oath as follows:

After Strip opening and while soldiers were on duty at land office here, about September 22, Mr. Skeed informed me that he thought arrangements could be made with soldiers on duty at land office to get some parties through to file at land office ahead of others. The two soldiers, one a sergeant, florid face, light complexioned, somewhat corpulent; the other one a slim, small man, dark complexioned, with a mustache.

The arrangement was this: Skeed said it was all fixed so we could get then through for $15—$5 apiece for the two soldiers and $5 for the deputy that would call the names.

I saw the soldiers; they said it was all right for to-morrow, that they had all they could put through that day.

The terms were repeated to the soldiers. They agreed to receive the names on a slip of paper, and the deputy marshal would call the names and the soldiers would see that they got through.

Arrangements were made to secure them the money, which they would get when the parties were admitted to the land office. Some change was made on the next day and the arrangement was not carried out.

103.

EL RENO, OKLA., *October 6, 1893.*

T. R. Jackson, sheriff of Canadian County, stated under oath as follows:

I was only present at the opening a short time on the rail or near there in the vicinity of Hennessey. I was on the line from about 4 to 5 miles east of the railroad from about 11 to 1 o'clock the night before the opening. During that time I heard some conversation near by. Could not distinguish what was said. Saw two horsemen; they called for Bill Williams, of El Reno. He went to them and they talked. Williams told me at the time, upon coming back, that a sergeant had offered to give them the pass-word, let them inside the line that night, take them to a safe place where they could not be molested, for $5 apiece. Williams repeated this to three or four of us—there was probably about fifteen in the crowd. I told him (Williams) to do nothing of the kind. I don't think he had any inclination to do it, anyway. Williams went back to the mounted men, had some talk, and then returned. In my opinion the lieutenant, a cavalryman, I think, who was in the first train in the head engine, is responsible for all accidents that happened at New Enid, for this reason: I was in the engine. The engineer asked him (the lieutenant) if he must stop at New Enid. The lieutenant said, "You can do as you please; I have no orders to stop here." The train was then running good speed at that point for the first time. The train did not stop nor slow up. A great many people jumped off at this town site, injuring a number. After passing New Enid the train slowed up. I jumped off after it slowed up, some distance beyond the town.

Before this the train had stopped about every 5 miles from the south line. The train stopped two or three times before passing through New Enid. My judgment is that the last stop before reaching New Enid was about 3 miles south of that place, having made three stops as I remember. New Enid was the Government town site and land office where the people wanted to get off.

I know nothing as to origin of prairie fires. I saw no misconduct on part of troops; they were sober so far as I saw; I was there too short a time to take any particular notice.

I saw no favors by soldiers to citizens at the registration booths or elsewhere. I paid no attention to it. I heard several say that they had paid money to register, whether to soldiers or citizens I can not say; both seemed to be on duty there. I can not give any names, as it was talk.

At a previous opening of the Cheyenne and Arapahoe Reservation it was managed by the soldiers much better and more successfully. The troops were then stationed at a good distance in front, where they could be seen by the people and give the signal at the same time. In this case the soldiers were only a short distance in front of the people, probably 20 to 30 feet, making it difficult for the mass of people to see them any distance.

104.

PERRY, OKLA., *October 5, 1893.*

S. L. Gilbert, lawyer, of Perry, Okla., states under oath as follows:

I ran on a fast horse from east of Orlando on September 16[1]; arrived here thirty-five minutes after 12, beating the train (nine minutes).

I was ordered off a block where the troops were by a soldier, ordered to go around, which I did. I understand that other parties were soon afterwards allowed on same day to go there and stake lots. When I came here there were at least 3,000 men and a few women here, as I estimate. The majority of these were "sooners" beyond all reasonable doubt. From observation and inquiry there were not over 100 or 150 horses here when we got here.

As to whether there was any collusion between the "sooners" and soldiers here I can not say. Have heard such reports as common talk. No specific case of names and amounts given.

As to the conduct of troops, they were well behaved and kept under good discipline.

There is a matter as to the run made from south line of Chilocco Indian Reservation, near Arkansas City, Kans.

I heard from a reliable party, J. C. Stanley, an attorney of Arkansas City, that he knows a party who paid lieutenant in command $180 for allowing entry across Chilocco Reservation. He said he would give the name of the party when called upon to do so by proper authority. I think it was Fred Bower (butcher?) who gave me the names of parties who contributed to this corruption fund, as follows: Dr. C. S. Acker, of Arkansas City; Calvin S. Dean, of Arkansas City; Frank Hutchinson, Wyatt Hutchinson, John Root, and Alex. Woods, all of Arkansas City.

I registered at booth on the line, near Arkansas City. The conduct of troops was simply infamous—a drunken mob—abusive.

The soldiers here at Perry, so far as I saw and heard, behaved nicely. I camped by them for three days and nights.

I have known Stanley and Bower for years and believe them to be perfectly reliable.

Note by inspector.—The reported or rumored accusation against the lieutenant as above was, after renewed and careful investigation at Arkansas City, found to be without foundation, ample notice having been put in the papers at Arkansas City by Col. Heyl for any parties having knowledge of bribery to come forward and testify. None of the above parties appeared then or thereafter.

105.

ENID, OKLA., *October 8, 1893.*

F. L. Graham, of Enid, Okla., stated under oath as follows:

I came here on train at opening, September 16; know nothing personally as to bribe taking or any transactions on the part of soldiers, or their conduct generally.

On Tuesday or Wednesday following opening I heard here a Mrs. Lee, of El Reno, say she bought her way into the land office to file (I saw her papers), and that she paid, I think it was, $5 to the first soldier and $2.50 to the other one, who were guarding entrance to the land office. She was telling some boys how she worked it and they could work it same way.

106-107.

NOTES BY CAPT. LEE.

OLD ENID, OKLA., *October 8, 1893.*

Met Mr. S. F. Spencer of O County Bank, New Enid, Okla., on way to depot. In conversation with him on way to depot he said the soldiers here were a lot of thieves and bribe takers: that he saw or knew of a soldier receiving $2 for putting a man in ahead of others in staking lots, and that there are numerous cases of same kind which can be authenticated; that he was on business here and would not care to make any affidavit in these matters, and while the facts were as stated he did not seek to have his name mentioned, in fact would prefer otherwise, though I (Capt. Lee) could use my discretion. The train arrived and our interview ended. Mr. Spencer appeared to be a gentleman of reliability, and I give his statement accordingly, having made notes of same within an hour thereafter.

While riding from Old Enid to the new town of Enid, one Emil Gridley, who said he had an interest in lot 3, block 9 (New Enid), which he stated parties interested had sold for $500. Said that on Monday (the 18th) after the opening two young soldiers on duty at the land office—either general land office or town-site office—offered to put him in ahead of others for $5. He did not pay anything, but the offer was made to him by the two soldiers. I took his name and he reiterated the statement. I then told him who I was and that I was investigating the conduct of soldiers in just such cases, and asked him to get out and swear to his statement. He demurred at first; but upon my assuring him that he would not be involved in any way, that I only wanted the truth, he got out of the carriage and made oath before me that the statement he made was true. He had the appearance of being an honest man.

108.

ARKANSAS CITY, KANS., *October 2, 1893.*

Frank Schreeves, a resident of Butler County, Kans., being duly sworn according to law, states as follows:

A soldier came to our wagon about 10:30 a. m., September 16, 1893, and said he would take us in and give us a big start ahead of the crowd for $5 apiece. We did not accept his offer, but made the run at noon from Kansas line. I saw a soldier fire several shots during the rush, and saw one of the homesteaders fall from his horse, which I afterwards learned was a Mr. Hill.

109.

ENID, OKLA., *October 8, 1893.*

J. W. Thompson, probate judge, County O, Oklahoma, was informed by Capt. Lee of the object of his investigation and the charges against the soldiers, to which he replied that it is all true, the only trouble being to get specific proof. He further stated under oath as follows:

I was at the registration booths south, town 20, range 7. I saw soldiers receiving money from citizens to be put ahead of others in registration. I saw a number of cases. I could identify one of these soldiers, but probably not the others. Sergt. Daken was in charge there. The conduct of troops otherwise was good so far as I observed. Have no personal knowledge of occurrences here.

110.

ENID, OKLA., *October 8, 1893.*

Z. A. King, deputy United States marshal and city marshal of Enid; resides in Washita County; states under oath as follows:

Was present at booths at Hennessey and until opening on 16th, and here at Enid since. The military had entire charge at the booths. (There were three and then six booths.) I was there, not in connection with this business, but looking for a murderer. I saw, however, how the things were managed. Sergt. Daken, of the cavalry, appeared to be in charge of managing the immense crowd with several mounted men. I was there daily from the beginning to the end; in fact, was there on Thursday prior to the booth registration, which began on Monday. The system was this: Some attorneys and deputy marshals and deputy sheriffs, mainly from Kingfisher, appeared to be manipulating much of the business. They had companies organized of, say, about four hundred in each, giving them numbers. Some of these numbers would be left blank for sale on the outside.

The companies would line up to take their turn at the registration booths; the blank numbers would be sold, so as to get the parties in ahead of companies farther back. Of course, the managers of this scheme had to stand in with the soldiers or take them into the scheme. This was done to my knowledge. The soldiers would guard the crowds and keep the lines in order. "Sooners" would be passed in ahead in this way by these deputies and the soldiers, under one pretext and another, as guards, etc. While talking to Sergt. Daken parties came up to buy in ahead and made offers of money to us. The sergeant declined these offers; told them he could not do that and said same to me. He also said there was no doubt that there was money being paid to the guards—soldiers and deputies—but he could not help it; but, in my opinion, he (Sergt. Daken) seemed too good a man to accept any of such offers. He would at times ask some one in the crowd to help keep back those who wanted to crowd ahead and register. I saw myself money paid to soldiers and deputies—50 cents, $1, and $2. I do not know their names. The guards were changed from time to time—three men at a time. I had nothing to do with the business; was simply there as a peace officer, if anything occurred requiring my action. There was one case where a sick man was taken ahead to get his certificate. One dollar was paid to the soldier guard, who was mounted and near the booth, to let him ahead. The sick man thus got his certificate. I know of one man, Pad McCall, who was there, who came there without much money, who afterwards had a considerable amount. He represented himself as a deputy sheriff and deputy United States marshal. I understand that his brother told Mr. Thralls that he made $400 or $500 in this way in connection with the opening.

Saw no drunkenness nor disorder nor personal misconduct among the soldiers on duty there. The duty was hard, and at times the citizens may have thought the soldiers were too energetic in keeping the crowds back, shoving them, etc.

I inquired about the prairie fires that were burning and was told that the soldiers scouting had set the fires to drive out the "sooners." Some of the soldiers I questioned said that some of the boys (meaning soldiers) had started fires to run the "sooners" out of the gulches and cañons. I overheard talk among boomers that the stakes could not be found with the grass standing, and it would have to be burned off so that they could find the corners. I heard that talk in Hennessey and in the line after night.

Prior to the opening (September 16) and during the registration, I saw the soldiers bringing in "sooners" they had captured in the Strip, and they would hold them from

ten to twelve and twenty-four hours, and then turn them loose. On one day, after the commander came here, a squad of "sooners" was turned loose in the afternoon. These things seemed to me about the worst I saw among the troops there, as it seemed to me that these "sooners" should all have been held until after the opening on September 16. No doubt there were hundreds of "sooners" in the Strip in this part at the time of opening.

I came to this town (New Enid) about 4 p. m., September 16, 1893. I found Capt. Waterbury's company here. One soldier was guarding the well near the land office and another guarding the spring about a quarter of a mile from the land office, where there was an abundance of good water, keeping the citizens away from getting the water. The citizens justly complained of this deprivation.

I think the troops left here about the 2d or 3d of this month. While here they were guarding the land-office doors. While on duty they appeared to conduct themselves properly, with one or two exceptions. I saw a soldier on duty on the lines on the east door land office who was under the influence of drink. It seems that he was thrown outside the ropes by the citizens; he was cursing and threatening. He was taken away by two soldiers, I supposed under arrest.

The soldiers appeared to be in control, and deputy marshals and one or two deputy sheriffs of other counties and attorneys were coöperating with the soldiers in getting people in ahead to file. Mr. Butner, of Guthrie, informed me of a proposition that was made to him by another deputy marshal to take charge of the land office and work the scheme. I knew of a similar scheme before I came here. Mr. Charles Roff, deputy marshal, and also city marshal here, talked the matter over and refused to have anything whatever to do with the land office lines, except in case of riot and disorder, and then to preserve the peace.

On Monday or Tuesday after the opening, 18th or 19th of September, a lady openly and repeatedly accused, in the presence and hearing of a hundred or more people, at the north door of land office, a deputy marshal and the soldiers guarding the door of having received $20 to let her file, and had not done so and refused to give the $20 back which had been paid by her brother. Her brother also made the same accusation, and called the deputy a liar and threatened him. There was considerable excitement at the time. The woman got into the land office, claiming she was sick. She was put out and was not allowed to file. She came to me and said, "Aren't you a United States marshal?" I said, "yes." She said, "Can't you arrest them and make them give me my money back?") meaning, I suppose, the deputy and the soldiers). I said, "Yes; I can arrest them the same as any other citizen if I have the proof." They then went away and fixed up in some way. I believe she filed that day or the next and returned to Caldwell. That deputy is still in office, the last I heard.

The method, apparently, for putting parties ahead in filing at the land office was this, so far as the soldiers were concerned and those conniving with them: The party would approach the soldier guarding the door, tap him several times on the breast or arm and say, "How will you swap knives?" They would converse some little time and the party would return to the crowd, put his hand on another party's shoulder, or some other sign which would be observed by the soldier, and then this latter party would gradually work his way ahead to the door and would go in ahead. I noticed this particular method several times with the same soldier and with several succeeding soldiers on the guard duty there. I believe I can identify only one of these soldiers.

The general conduct of the troops here was satisfactory from my point of view. A few cases of drunkenness, off duty. I made one or two arrests shortly before troops left. Some when on duty were a little overbearing and assumed too much authority, while others were courteous and responsive to all inquiries.

111.

ENID, OKLA., *October 8, 1893.*

M. J. Johnson (colored) stated, under oath, as follows:

Came here on the opening. On Monday following began having a ladies' and gentlemen's toilet put up on the Government acre, so called, near the land office. Soldiers were armed with guns at land office. They used my place and would not pay anything; some would, but others would not. I did not pay them rent. They interfered with my business; brought many people in there with them and would not pay. Must have lost me about $65.

I saw a citizen give a soldier $5 right near the land office. A racket after that about such matters.

112.

ARKANSAS CITY, KANS., *September 30, 1893.*

G. W. Vaughan, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was present at opening of Strip on September 16. I was told that for $1.50 I could get a certificate. At the time I was a day and a half away from the booth. I left my place and followed the man who told me. I gave the citizen $1 and he said that when the soldier comes out and waves a stick I was to go to the booth, and when I passed the soldier to hand him 50 cents, which I did. When I entered the booth another soldier said, "Young man, you're in the wrong place." He said, "You can't do it for 50 cents." I handed him another 50 cents, and then the first soldier said, "Let him pass." Then I got my certificate. I do not know either of the soldiers by name. They belonged to the troop of cavalry stationed here, the Third Cavalry.

113.

ARKANSAS CITY, KANS., *September 30, 1893.*

William Kilpatrick, resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

A citizen came to me and said, "I can work you in for so much. If you go in there, you pay a soldier 50 cents or $1." The citizen says, "Give me $1," and I went to the booth and did not speak to the soldier. I then got my certificate. If I had gone into the line I would not have received my certificate until next morning.

114.

AFFIDAVIT IN THE MATTER OF BUYING A CERTIFICATE OF REGISTRATION AT ORLANDO, OKLA.

INDIAN TERRITORY,
Third Judicial Division, ss:

R. A. Houghton, being duly sworn, on his oath, says that he is a resident and has been a merchant of Purcell, Ind. T., for the five years last past; that he was at Orlando, Okla., on the 16th day of September, 1893, to register for a claim of 160 acres of land in the Cherokee Strip; that there were from 800 to 1,000 persons in line to register; that he stood in line about twenty minutes when he was told he was a chump to wait for all these men to register—that he could get a certificate for a claim in two minutes for $2.50; that he went into the booth and the soldier then made a great ado about putting him out, and with much simulated and noisy zeal did put him out, the clerk saying in a loud voice: "Sergeant, you know your duty." That he then went to a man sitting at a table just outside the booth and asked him for a certificate. The man said he would get him one for $2.50. Affiant said that was too much, and the man replied he had to whack up with the soldier. Affiant paid the man $2.50, who took him to the entrance of booth, saying to the soldier, "Let this man pass in." Affiant passed in and got his certificate for a claim in the Cherokee Strip in less than five minutes. There were some 800 to 1,000 persons ahead of affiant for registration. Affiant further states that the manner of doing the things stated herein could not well be concealed from the officers in charge of the booth.

R. A. HOUGHTON.

Subscribed and sworn to before me this 13th day of October, 1893.

JAMES E. HUMPHREY,
Notary Public, Third Judicial Division, Indian Territory, at Purcell.

115.

NOTES BY CAPT. LEE.

ENID, OKLA., *October 8, 1893.*

W. A. Milner, city police, Enid, Okla., states that the authorities, from what he has heard, arrested the wrong man in the following case: The money was paid to a

man (soldier) who was on guard in the door. (The man arrested was reported sick and in camp.) Soldier of infantry company at Enid arrested for receiving $20 bribe at land office, and was sent to Guthrie United States jail to be held for further action. The soldier's name is William Horne, Company C, Thirteenth Infantry—sent away yesterday (October 7).

Mr. Sam Steel says Harland, of Gainesville, Tex., told him he gave a soldier $5 in his hand to get in at back door of land office.

116.

ARKANSAS CITY, KANS., *October 2, 1893.*

T. V. McCann, a resident of Arkansas City, Kans., being duly sworn according to law, states as follows:

I was on the west line of Chilocco at time of opening of Strip about 10:30 a. m., September 16.

There was no smoke or fire in sight southwest of Chilocco. I saw a citizen riding due south on a fast horse that led everything, and immediately on his going out of sight I saw the first smoke, which led me to suppose that he set fire to the grass. In my opinion this was done in order to retard the rush of the main body of homesteaders in order to allow the few to secure the best land.

117.

Subject: Inspector surveyor-general's and district land offices, Swineford, testifies to gentlemanly conduct of officers and men engaged at opening of Cherokee Strip.

GUTHRIE, OKLA., *October 11, 1893.*

J. M. LEE,
Captain and Inspector, Chicago, Ill.:

SIR: In response to yours of October 7, inclosing interrogatories in connection with the conduct of troops at the recent opening of the Cherokee ceded lands, I have to say that I have no personal knowledge whatever of the matters referred to in the first five of said interrogatories. As to the others, I answer as follows:

(6) Do you know any officer or soldier who received bribes from "sooners"?—Answer. I do not.

(7) Do you know any soldier who can be charged with drunkenness or cruelty?—Answer. I do not.

(8) Do you know that settlers have fallen victims to prairie fires, and who started these fires?—Answer. Nothing, except what I have seen in the newspapers. I knew that a large part of the eastern portion of the Strip was burned over, but I do not know that any lives were destroyed or who started the fires.

(9) Have you met an attorney of Gadsden, Ala., who said that the opening was a big swindle, that the soldiers on guard were nearly all drunk, and that he knows of several cases where they were bribed by "sooners?"—Answer. I have never met such a man, but know of my own knowledge that if he made such a remark concerning the "soldiers on guard being nearly all drunk," he uttered a deliberate falsehood. He is probably some jackleg lawyer, afflicted with a sad impediment in his veracity, who, if found, would deny ever having made such statements.

In addition to the foregoing answers, I wish to state that the military was called upon by the proper authorities to aid in the opening of the Strip, to facilitate an honest, orderly, and successful registration of those qualified to enter upon and possess the Cherokee ceded lands when open to settlement, and thus avoid the irregularities and scandals which had characterized and grown out of previous openings of lands in Oklahoma Territory, resulting from the employment of irresponsible, if not wholly disreputable, deputy marshals. In the discharge of my official duties I became quite conversant with what was done by the troops at this recent opening, and, so far as they came under my observation, I am quite sure they performed their duty with efficiency and discretion. With the exception of the unfortunate killing of a man, as reported by the newspapers, at the opening near Arkansas City, the conduct of the troops, so far as I was able to observe, was highly satisfactory. My knowledge of these matters includes much of the duty performed by the commanding officers at Caldwell, Enid, and Perry, as well as the troops on the same line, under Capt. Johnson, and those stationed at the Hennesey booths.

In the simultaneous settlement of a large section of country, the largest ever yet opened in a similar way, and with such a vast mass of people, there was necessarily an influx of very bad and disreputable characters, who did all th y could to embarrass and thwart the well-devised plans of the Interior Department for an honest and successful opening; but, notwithstanding every obstacle, the work was carried out successfully. There are many false rumors and reports, none of which can be traced to any reputable source, or substantiated by any credible testimony; and with the possible exception of the unfortunate occurrence near Arkansas City, all was done that could and should, in my opinion, have been done by the officers and troops in the discharge of their arduous and delicate duties. As to the alleged bribery of soldiers by "sooners," I feel quite certain that a close investigation will prove each and every such allegation to be entirely false; for the reason, if for no other, that the "sooner" was reduced to no such necessity, because of the fact that the troops were entirely too few in number either to guard the border or scour the numerous hiding places in which the "sooners" could find secure concealment. To my personal knowledge, many would-be "sooners" were driven out of the strip during the week of registration; but that large numbers of others of the same class eluded the vigilance of the comparatively small force on duty is not at all to be wondered at. In my opinion, the entire strength of the cavalry arm of the United States Army would hardly have been sufficient to the complete prevention of "soonerism" at the recent opening. I wish to add that I had charge of the recent opening as a representative of the Interior Department, and that as such representative, I cheerfully testify, not only to the gentlemanly conduct of the officers and troops with whom I came in contact, but that on the part of the officers my every suggestion and request, looking to the preservation of order and proper conduct of the business in hand, met with the most prompt and cheerful response.

Very respectfully,

A. P. SWINEFORD,
Inspector Surveyor-General's and District Land Offices.

120.

COPY OF LETTERS FROM THE RECORDS AT FORT SUPPLY, OKLA.

GUTHRIE, OKLA., *September 1, 1893.*

Lieut. Col. PARKER,
Commanding troops in the Cherokee Strip:

DEAR SIR: The booth that formed the subject of your telegram this afternoon, as are all the others, has simply been located.

The work of construction will begin Monday next. When I left Washington Judge Lamoreux told me to see you if possible before the booth officer began work, and request you to place a sufficient guard around each booth to preserve order and quell disturbances, also to place a similar guard at the land offices on the 16th instant.

I presume, however, that he has communicated with you on that subject. I would like very much to see you, however, to discuss the manner of giving signals at the moment of opening the Strip, in order that we may have the benefit of your judgment.

If you should chance to be at any point next week where I may reach you by rail I will try and meet you. If, however, your business does not call you away from Fort Supply, I will come over there soon, although I am quite busy at this point arranging details relative to the opening.

Very respectfully,

EMMITT WOMACK,
Special Agent.

A true copy.

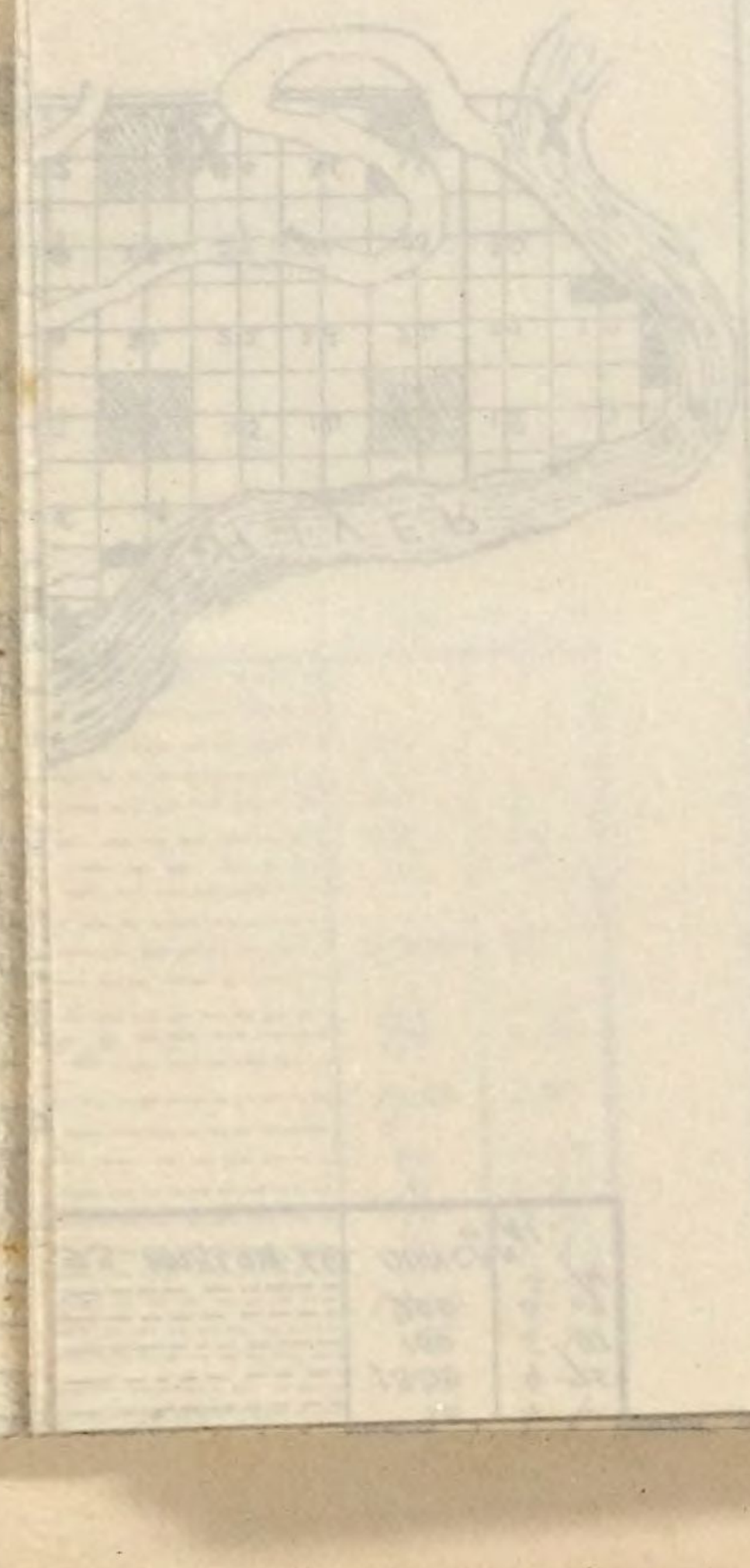
A. P. BUFFINGTON.
First Lieutenant, Thirteenth Infantry, Post Adjutant.

CAMP AT CHILOCCO, IND. T., *September 1, 1893.*

Lieut. Col. D. PARKER,
Thirteenth Infantry, Fort Supply, Ind. T.:

SIR: I have the honor to ask whether 100 feet on the inside of the Arkansas River where it bounds the Cherokee Strip is to be set apart in accordance with the proclamation of the President?

HEX SA 231



THIS MAP IS NOT TO SCALE

I ask this because I am informed that a decision has been received from the Interior Department that the Arkansas River is a part of the Strip, and if such is the case people could not congregate on this side of the river preparatory to the opening.

I also wish to know whether people are to be allowed to congregate on the Chilocco school reservation preparatory to the opening.

This reservation is a block of land 3½ by 4½ miles long, along the State line south of Arkansas City, and is surrounded by a wire fence; except where the main road south from Arkansas City cuts through it.

Very respectfully, your obedient servant,

F. M. CALDWELL,
Second Lieutenant, Third Cavalry, Commanding Troop C.

GUTHRIE, OKLA., *September 2, 1893.*

Col. PARKER,
Commanding Cherokee Strip, Fort Supply, Ind. T.:

Will you kindly have a detail sent to points of each booth to take care of same from time of erecting them, which work begins Monday next?

EMMITT WOMACK,
Special Agent.

The above are true copies.

A. P. BUFFINGTON,
First Lieutenant, Thirteenth Infantry, Post Adjutant.

GUTHRIE, OKLA., *September 3, 1893.*

Lieut. Col. PARKER,
Commanding troops, Cherokee Strip, Fort Supply, Ind. T.:

Governor Swineford is absent. I have power to issue permits and am in charge of opening generally.

EMMITT WOMACK,
Special Agent.

CALDWELL, KANS., *September 4, 1893.*

Col. PARKER,
Commanding Fort Supply, Ind. T.:

Will recognize permits of Emmitt Womack, Interior Department.

ELTING, *Commanding.*

Same as above from other officers.

GUTHRIE, OKLA., *September 8, 1893.*

Lieut. Col. PARKER,
Commanding troops, Cherokee Strip, Fort Supply, Ind. T.:

I am instructed by Commissioner Lamoreux to give notice that persons will be allowed to occupy 100 feet strip around Chilocco reservation. Of course persons will not be allowed on reservation itself.

EMMITT WOMACK,
Special Agent.

Repeated to Lieut. Caldwell, same date.

ARKANSAS CITY, KANS., *September 10, 1893.*

Lieut. Col. D. PARKER,
Fort Supply, Ind. T.:

Copy of Womack's telegram received. As I understand it now, the run is to be be made from the north and south sides of the Strip only. I shall clear out all camps on the eastern side to-morrow, unless otherwise ordered.

CALDWELL,
Lieutenant commanding.

GUTHRIE, OKLA., *September 11, 1893.*

Lieut. Col. PARKER,
Fort Supply, Ind. T.:

No run is permissible from the Osage or Creek counties, or from any reservation. Only legal entry is fom Kansas, Oklahoma, and Texas.

SWINEFORD,
Inspector.

The above are true copies.

A. P. BUFFINGTON,
First Lieutenant, Thirteenth Infantry, Post Adjutant.

GUTHRIE, OKLA., *September 12, 1893.*

Col. PARKER,
Fort Supply, Ind. T.:

There is a well-planned scheme by "sooners" to capture largest part of Perry town site by making their way into the Strip night of 15th, or into Otoe reservation. I respectfully suggest that all available cavalry that can be spared from less exposed sections be sent to that quarter to search hiding places and guard and patrol reservation border from early morning 16th till after run is over.

A. P. SWINEFORD,
Inspector, Interior Department.

CAMERON, KANS., *September 12, 1893.*

Lieut. Col. PARKER,
Fort Supply, Ind. T.:

A water famine exists here. Thousands of people and animals are suffering for water. It can be had on Strip within 3½ miles of line. Under restrictions which I shall prescribe, may prospective settlers enter the Strip for purpose of securing water? Answer to-night. I return to Pond Creek to-morrow.

DODD, *Captain.*

REPLY TO ABOVE TELEGRAM.

FORT SUPPLY, IND. T., *September 12, 1893.*

COMMANDING OFFICER,
Troop F, Third Cavalry, Cameron, Kans.:

I have no authority to grant permission for persons to enter Strip, but have repeated your telegram to Womack, special agent, with request to answer you direct.

PARKER, *Commanding.*

GUTHRIE, OKLA., *September 13, 1893.*

PARKER, *Commanding,*
Fort Supply, Ind. T.:

Complaints come in large number, professional repeaters in line at booths retarding registration, as fast as they sell out, take places again and repeat operation. Please instruct your officers to stop this far as possible.

A. P. SWINEFORD,
Inspector, Interior Department.

The above are true copies.

A. P. BUFFINGTON,
First Lieutenant, Thirteenth Infantry, Post Adjutant.

GUTHRIE, OKLA., *September 13, 1893.*

Lieut. Col. PARKER,
Fort Supply, Ind. T.:

Order permitting trains to run three hours, commencing at noon, 16th, issued. Will need detachment infantry at Arkansas City, Caldwell, Kiowa, Orlando, Hennessey, and Higgins. Entrances to enforce train regulations. Please give orders accordingly. Secretary's order printed in to-day's papers substantially correct. Answer.

A. P. SWINEFORD,
Inspector, Interior Department.

ARKANSAS CITY, KANS., *September 13, 1893*

Lieut. Col. D. PARKER,
Fort Supply, Ind. T.:

Letter of September 11 received. It will be impossible to send a man to Hunnewell if the crowd is to be controlled here. There will be fully 25,000 people run from this point; there are fully 5,000 in line here already. With present force of clerks all can't be registered, and expect trouble Saturday.

CALDWELL,
Lieutenant Commanding.

GUTHRIE, OKLA., *September 14, 1893.*

Lieut. Col. PARKER,
Fort Supply, Ind. T.:

Will meet you if possible at Arkansas City Friday. Your plan of giving signals on opening is the proper one. I hope you will have that carried out. No run will be allowed from Flat Iron country, in the east, nor where it borders on the Creek country.

E. W. WOMACK,
Special Agent.

GUTHRIE, OKLA., *September 14, 1893.*

PARKER, *Commanding,*
Leland Hotel, Arkansas City, Kans.:

Am informed number of men will attempt run from Orlando on fast hand cars. They will be trespassers on road. Mr. Hartman, superintendent, will call on you in reference to matter. Please consider his suggestions as mine.

A. P. SWINEFORD,
Inspector.

The above are true copies.

A. P. BUFFINGTON,
First Lieutenant, Thirteenth Infantry, Post Adjutant.

CALDWELL, KANS., *September 18, 1893.*

Lieut. Col. PARKER,
Commanding, Fort Supply, Ind. T.:

My camp is 4 miles from town—the only water available. The booth here is broken up, and one-half of my troop is at the Hunnewell booth. All is quiet and the opening here was a great success.

ELTING, *Captain.*

ENID, OKLA., *September 21, 1893.*

Col. D. PARKER,
Fort Supply, Ind. T.:

Land offices will not close before two weeks from 18th. Commanding officer A Troop received telegrams. I need an officer here to help me; am very short of noncommissioned officers also.

WATERBURY, *Commanding.*

ENID, OKLA., *September 21, 1893.*

Col. PARKER,
Fort Supply, Okla.:

Booth near Hennessey not yet closed.

HEDEKIN,
Commanding Troop A.

ALVA, OKLA., *September 24, 1893.*

Lieut. Col. PARKER,
Thirteenth Infantry, Fort Supply, Ind. T.:

SIR: I have the honor to report, in obedience to your orders of the 23d instant, that everything is orderly and quiet here, and that the civil officers on the ground are fully sufficient for preserving the peace and protecting property.

I recommend that the company return to its station by the 27th instant.

Very respectfully, your obedient servant,

M. B. SAFFOLD,
First Lieutenant, Thirteenth Infantry, Commanding Company E.

POND CREEK, OKLA., *September 25, 1893.*

Col. D. PARKER,
Fort Supply, Okla.:

Citizens request that troop be kept at this point until first of month. Affairs not settled yet. No civil organization.

JNO. W. NYCE,
Chairman Safety Committee.
M. E. KING,
Agent.

The above are true copies.

A. P. BUFFINGTON,
First Lieutenant Thirteenth Infantry, Post Adjutant.

CAMP TROOP F, THIRD CAVALRY,
Pond Creek, Okla., October 5, 1893.

Lieut. Col. D. PARKER,
Thirteenth Infantry, Commanding Troops in the Field, Fort Supply, Okla.:

SIR: In compliance with the communication from your office, dated the 18th ultimo, I have the honor to submit the following report of duty performed by Troop F, Third Cavalry, in connection with the opening of the Cherokee Strip:

In compliance with letter of instructions from your office, dated August 29, 1893, I located my headquarters at this point, arriving here on the evening of August 31, 1893.

Owing to an error on the part of the Missouri, Kansas and Texas Railway Company, the car containing the troop's saddles and other horse equipments was not transferred to the Rock Island road at White City, but was sent to Emporia, Kans., and did not reach me until September 2, forty-eight hours after my arrival here. Notwithstanding this mishap, however, by locating lookouts provided with field glasses, there were discovered, and by men riding barebacked horses, equipped only with the halter, arrested, eight outfits of intruders.

The dimensions of the district patrolled and guarded by my troop are about as follows:

North, 56 miles; south, 36 miles; west, 29 miles; east, 32 miles; total 153 miles; area 1,624 square miles.

The principal roads and trails leading into and through this district are: First, the Caldwell and Hennessey road; second, the Kiowa and Hennessey road; third, the Cameron and Hennessey road; fourth, the Bluff City trail.

The Chicago, Rock Island and Pacific Railway skirts the eastern border, and the terminus of the Hutchinson and Southern Railway is at Cameron—a small town on the Kansas line. All of these thoroughfares were guarded.

A portion of the Kiowa and Hennessey trail, being near the eastern border of this district, Capt. Hardie kept a detachment at or near its northern outlet, thus saving me much marching and transportation of supplies, while the southern portion was

guarded and patrolled by detachments from my troop. On September 6 I personallg visited Cameron and located there a detachment of a noncommissioned officer and nine men as a guard to the booth to be established at that point.

Scouting parties were kept out at all times between the 2d and 16th of September, the entire distance scouted over and patrolled by the troop being about 1,626 miles.

The troop arrested and removed 59 intruders, about 1,600 cattle, 121 horses and mules, 40 wagons and buggies, and 12 families (*i. e.*, women having with them children, but not being heads of families).

On the 12th I again visited Cameron and found there a great scarcity of water, persons and animals suffering from want of it. Under date of September 12 I telegraphed the lieutenant-colonel, commanding, the situation; and my messages having been repeated to N. P Swineford, on the 13th I received the following message:

"Settlers authorized to enter strip for water under rigid restrictions. Swineford."

The restrictions under which water could be procured from within the limits of the strip are set forth as follows:

"CAMP TROOP F, THIRD CAVALRY,
"*Cameron, Kans., September 13, 1893.*

"Owing to the great scarcity of water at and near Cameron the following arrangements will go into effect, whereby water may be obtained for stock, drinking, and other purposes:

"All animals to be watered, under charge of a suitable number of persons not eligible to locate and file claims, preferably minors, will be bunched at 9 a. m. and at 3 p. m., on the east side of the new railroad grade and between the southern limits of town and this camp, after which they will be led or driven, under military escort, to and from the water, southwest of the town.

"Wagons with barrels or other vessels to contain water for drinking and other purposes will be parked at the southern limits of the town and escorted to and from the spring at the same time the stock is watered.

"Any abuse of this privilege will result in its immediate and complete withdrawal.

"GEO. A. DODD,
"*Captain Third Cavalry, in charge of the Central Strip.*"

This arrangement was carried out up to the time of the opening, and gave rise to much satisfaction on the part of settlers honestly inclined.

Owing to the extent of border (56 miles) from which starts were to be made on the day of the opening and the small number of men to guard it, and not having at the time received the letter of instructions regarding the manner of opening, I caused the following circular to be posted at the various points along the line, and generally informed the people as to the points at which the signal would be given:

"CAMP TROOP F, THIRD CAVALRY,
"*Cameron, Kans., September 13, 1893.*

"To insure the signal for opening being received simultaneously along the entire line, persons entering the Cherokee Strip, on the 16th instant, between Caldwell and Kiowa, will do so near the following named places within the limits herein prescribed, viz:

"Within 2 miles west of Caldwell; 2 miles east and 2 miles west of Bluff City; 2 miles east and 2 miles west of Cameron, and 2 miles east of Kiowa.

"Prospective settlers will locate themselves within these limits prior to the hour of opening.

"GEO. A. DODD,
"*Captain Third Cavalry, in charge Central Strip.*"

"CAMP TROOP F, THIRD CAVALRY,
"*Cameron, Kans., September 13, 1893.*

"In addition to the limits above specified, starting will be permitted along the line 2 miles to the east and 2 miles to the west of the Big Sandy, at the point where it crosses the State line between Kiowa and Cameron.

"GEO. A. DODD,
"*Captain Third Cavalry, in charge Central Strip.*"

The signals given were shots fired along the line; and, to prevent misunderstanding and false starts, white flags were displayed from prominent points simultaneously with the firing.

This arrangement (which, owing to the immense crowd, had to be subsequently slightly modified), with explanation, was submitted to the lieutenant-colonel commanding, and received his approbation.

On the 15th of September I received a paper signed by the leading citizens of Caldwell containing the following:

"CALDWELL, KANS., *September 14, 1893.*

"Capt. DODD,
"Commanding United States troops at Pond Creek, Okla.:

"SIR: We, the undersigned citizens of Caldwell, Kans., and vicinity being desirous of seeing a fair deal in the opening of the Cherokee Strip, and wishing to see 'soonerism' properly punished and the rights of the honest settlers protected, would respectfully petition and request you to keep a close watch upon the valleys and timbered and sheltered portions of Pond Creek, Polecat, and Osage creeks on the morning of the opening, as we have reliable information that a great number of persons contemplate entering said territory before the time of opening, and would thereby defraud many honest and deserving persons of their rights." * * *

At about the same time, in an interview with the division superintendent (Mr. Hobbs) of the Chicago, Rock Island and Pacifie Railway, I learned that the authorities of that road had reasons to believe that their principal bridges between here and Caldwell would be burned or otherwise destroyed on the night of the 15th or morning of the 16th of September, and requested that guards be furnished. I therefore found myself in the dilemma of having one registration booth, 56 miles of border, and at least three important railroad bridges to be guarded; an extensive rich district likely to be seized upon by "sooners," to be scouted; two prospective town sites at which troops should be be kept; and, to do this, I had forty-five available men.

In compliance with so much of your letter of instruction as admonishes troop commanders to coöperate with and assist one another, I communicated with the troop commanders whose districts adjoined mine on the east and west, respectively; Capt. Hardie cheerfully responded to this request by extending his line about 10 miles eastward, thus materially helping me. I desire to express my appreciation of this and other assistance rendered me by Capt. Hardie's troop. No other assistance was received.

The guards for the three most important railroad bridges were furnished; the territory referred to in the paper signed by the citizens of Caldwell was thoroughly scouted during the afternoon and night of the 15th and the morning of the 16th, and detachments were left at or near the prospective town sites.

A noncommissioned officer, with a suitable detail, was placed in charge of each one of the starting districts. except the one at Cameron, which I took personal charge of; and, to each of the noncommissioned officers a sealed watch was sent, on the morning of the 16th, these watches having previously been set to the standard time, secured at Cameron by telegraph. Signals were given according to these watches, and I do not believe that there was material deviation along the entire line. By riding nearly all of Friday night and all of Saturday forenoon I was able, personally, to visit the most densely crowded portions of the line a short time before the opening; and, by talking with the people at the points most crowded, not only concealed the weakness of my guard, but caused them to form guards of their own in order to insure a fair start; the consequence being that, so far as I can ascertain, there was no false starting or breaking over the line at any point, and the start was considered very satisfactory by all. By or before midnight of the 16th my entire troop, except the booth guard, was concentrated at this point—though to effect this some of the detachments had to ride from 55 to 60 miles—after riding nearly all of Friday night and Saturday forenoon.

Referring to my own district, I am confident that it was practically free of "sooners," all newspaper reports to the contrary notwithstanding.

The people on the border were practically ignorant of the number of soldiers within the limits of the district; the roads and trails being so guarded as to result in the arrest of about all who entered or attempted to cross the Strip, created the belief that many more troops were in the interior than there really was.

Since the opening I have made it a point to personally investigate every alleged case of "soonerism" and have yet to find a bona fide case.

The arrangement at the booth precluded the possibility of the men on duty there rendering services in consideration of bribes, even were they disposed to do so; and I carefully abstained from doing more than acting as guard and preserving order, in compliance with the expressed wishes of the officer in charge of the booth. The matter of registering was entirely in the hands of the officers appointed for that durpose; and the matter of arranging the lines, order of registration, etc., rested entirely with the booth officers and the people themselves, troops only being used to preserve order, prevent ruffianism, and see that the prescribed rules and regulations were not violated.

There were neither United States marshals nor other civil officers present; and universal satisfaction was expressed as to the arrangements made, as well as to the deportment of the troop.

On September 22 I received orders to return to Fort Riley, and made arrangements accordingly; but on the 26th of September I received telegraphic orders

directing me to remain here until further orders, the revocation of my first order being due to a request from the citizens here to that effect.

I have supplies to include the 10th instant, after which date I do not believe there will be further necessity for the active service of troops at this place, though their presence would undoubtedly prevent trouble which is apparently brewing.

The following condition of affairs exists:

There are two competitive towns, 2½ miles apart; opposing factions exist in one of these towns, which makes it highly desirable that a civil organization be effected at an early date, or before the withdrawal of the troop. At the same time antagonistic feelings exist between the two towns and between one of the towns and the railway company. In one of the towns, Pond Creek, no permanent or effective civil government has as yet been organized. It is generally conceded that the presence of troops has been most beneficial in preserving order up to this time.

In the light of developments made subsequent to the opening of the Strip, as well as in consequence of the broadcast accusation of inefficiency, cupidity, and corruption on the part of troops on duty in the new Territory, I have deemed it not out of place to make this report more comprehensive than would have been otherwise necessary, and to touch upon matters apparently of little importance under ordinary circumstances; and, in justice to my troop, I do not consider it inappropriate to say that I have received only words of praise and commendation from the mass of the people with whom they were thrown in contact, as to the manner in which my men have deported themselves and performed their duty, especially when acting alone and when thrown largely upon their personal responsibility, as they were obliged to be in guarding so large a district, and this notwithstanding the fact that large bribes were in many instances offered both noncommissioned officers and privates to induce them to disobey their orders and instructions.

I also consider it proper that the Department should know that I am prepared to refute any of the malicious charges so freely made against other troops if made to apply to mine.

Very respectfully, your obedient servant,

GEO. A. DODD,
Captain, Third Cavalry, Commanding Troop F.

Owing to defective mail service at this point a letter from Lieut. Col. D. Parker, Thirteenth Infantry, informing me that he would not be in command after the 5th instant, failed to reach me in time to admit of this report reaching him previous to his departure from Fort Supply.

A copy of the report is therefore respectfully furnished to the Assistant Adjutant-General of the Department.

GEO. A. DODD,
Captain, Third Cavalry, Commanding Troop F.

CAMP F TROOP, THIRD CAVALRY,
Pond Creek, Okla., October 22, 1893.

ASSISTANT ADJUTANT-GENERAL,
Department Missouri, Chicago, Ill.:

SIR: I have the honor to inclose herewith two papers which, it is believed, may be advantageously used in connection with the investigation to be made as to the conduct of troops prior to and during the opening of the Cherokee Strip.

These papers will show conclusively the disinclination on the part of the press—especially of the Associated Press—to make a fair and impartial report of the so-called outrages and alleged misdemeanor of the troops in question, and their willingness and anxiety to publish anything, however insignificent and prejudicial to the personnel of the Army, only so it be sensational. Honorable Members of Congress have caused these false and sensational reports, for the origin of many of which the agents of the Associated Press are responsible, to be read to Congress, and on them have based their demands for an investigation. It is believed that Congress should be informed as to the other side of the question, notwithstanding the fact that the Associated Press refuses to correct the false impressions already created, by giving currency to its true phase.

I am, sir, very respectfully, your obedient servant,

GEO. A. DODD,
Captain, Third Cavalry.

[First indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Chicago, October 24, 1893.

Respectfully forwarded to the Adjutant-General of the Army for the information of the Secretary of War, in connection with report of Col. Heyl and Capt. Lee, forwarded from these headquarters on the 23d instant.

Attention is especially invited to the inclosed letter of Capt. Dodd, with accompanying papers.

NELSON A. MILES,
Major-General, Commanding.

[Telegram.]

POND CREEK, OKLA., 9.45–10–13.

The citizens of Pond Creek in mass meeting passed strong resolutions highly complimentary to the U. S. Army for the manly conduct of Capt. Dodd's troop; also complimented United States officials in charge of booth at Caldwell and Cameron prior and up to noon of September 16, 1893.

The resolutions emphatically emphasized the fact that there were no sooners in the territory covered by Capt. Dodd's troop; also condemned sensational reports sent out by newspaper correspondents.

JOHN W. NYCE.

A true copy:

GEO. A. DODD,
Captain Third Cavalry.

THE ASSOCIATED PRESS,
Kansas City, Mo., October 13.

JOHN W. NYCE, Esq.,
Pond Creek, Okla.:

DEAR SIR: The inclosed item is not of interest to the general public. We handle news of general interest only. Kindly bear this in mind in sending in your matter, and restrict yourself to only the most important news from the standpoint of the Associated Press; always send your matter closely condensed, and should you have a very sensational piece of news, state the matter to us by wire in a query, which should be very brief, and embrace the important points of the item, and we will then wire you how much to send. Never send a long item without first sending us a query concerning it.

Truly, yours,

W. B. HOTCHKISS.

A true copy:

GEO. A. DODD,
Captain, Third Cavalry.

30

BSB Bayerische StaatsBibliothek
MDZ Münchener DigitalisierungsZentrum Digitale Bibliothek

House documents

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Washington, DC 1893
Am.b. 3040-446
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